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**TEACHERS' RETIREMENT BOARD MEETING**  
**February 7, 2002**

Vice Chairman Turcotte called the meeting to order at 2:00 p.m. in the conference room of the Teachers' Retirement System, 1500 Sixth Avenue, Helena, Montana. Chairman Ryan joined the meeting at 2:05 p.m. Those present were:

Tim Ryan, Chairman  
Jim Turcotte, Vice Chairman  
Emily Hall Bogut  
Scott Dubbs  
Randy Durr  
Barbara Foster  
David L. Senn, Executive Director  
Tammy Rau, Assistant Executive Director  
Vivian Hammill, Legal Counsel

Others present were:

Karla Scharf – TRS Staff, Pam Niklas – TRS Staff, Brian Wolf – ITSD, Stuart Kellner – Attorney

**Adopt Agenda.**

Mr. Turcotte called for additions or changes to the Agenda. Mr. Senn asked the Board to add Emily R. Prokop as an action item to the retirement report on the agenda. Ms. Bogut moved to adopt the agenda as amended, Mr. Dubbs seconded. Motion carried.

**Approval of Minutes for November 30, 2001.**

Mr. Turcotte asked if there were any additions or corrections to the minutes. Hearing none, Mr. Turcotte asked for a motion for approval. Mr. Durr moved to accept the minutes, Ms. Foster seconded, motion carried.

Mr. Tim Ryan joined the meeting

**Retirement Report.**

The Board had a discussion on the retirement report submitted to the Board. Mr. Senn reviewed the information that had been provided by Ms. Prokop's attorney. Ms. Prokop provided documentation claiming that her husband had signed her name to the Normal Form Option on his retirement application and stated that she was not aware her husband had selected an option that did not provide for an ongoing survivor benefit. She also claimed that at the time of his death he was suffering from brain cancer and that she believed that her husband's illness affected him since at least 1995. Ms. Prokop believed that her husband had selected Option B.







Mr. Senn explained that the statutory default was the Normal Form Option and that there was no statutory requirement for the spouse's signature. He gave a brief report on why the current application requires a spouse's signature for the Normal Form Option. Ms. Hammill expressed concern about the forgery issue and said it appeared the member tried to commit fraud upon the system. Ms. Hammill feels the form has some meaning and the member was trying to fraud his spouse, whether it was medically related or intentional.

After discussion, the Board requested that an application form be drafted requiring the signatures be notarized and that changes in legislation be drafted to help avoid this problem in the future, which would also give TRS more leverage and direction in the correction of errors. The draft form and legislation would be reviewed in May 2002. The Board agreed that the new form would not be used for the current school year and that the existing supply of forms would be exhausted.

Mr. Durr moved that staff request additional information on Mr. Prokop's mental abilities, medical condition and lifestyles of the Prokops and if Ms. Hammill and Mr. Senn concurred that the answers provided support for Ms. Prokop's statement of the facts, that Mr. Prokop's benefit option be changed, Ms. Foster seconded.

Mr. Senn asked that Mr. Durr clarify his motion to include the type of benefit that will be granted to Ms. Prokop. Mr. Durr amended the motion to state that Ms. Prokop would be granted the remainder of a Twenty Year Certain and Life Option retro active to July 1, 1997 and provide proof that the signature on the original application was not that of Ms. Prokop and the overpayment be recovered with interest at the rate of 8 percent, from future monthly benefits, Ms. Foster seconded the amendment. Motion carried.

### **Disabilities.**

The Chair directed the meeting closed to review the disability applications because the Chair determined that the next item on the agenda relates to matters of individual privacy and that the demands of individual privacy clearly exceed the merits of public disclosure.

The meeting was closed.

The meeting was reopened to the public.

Ms. Bogut moved to approve the disability for Patricia Zorko, Ms. Foster seconded. Motion carried.

Ms. Foster moved to approve the disability for James Dow, Ms. Bogut seconded. Motion carried.

Mr. Durr moved to approve the disability for Laurie Van Roekel, Mr. Turcotte seconded. The motion passed with one dissenting vote.







## **Other Business.**

Next Meeting Dates – May 10, September 6 and November 15, 2002 – Mr. Ryan asked that all Board members check their calendars for conflicts. These dates were approved by the Board at the last meeting.

Out-of-State Travel Requests – Mr. Senn requested that the Board approve out-of-state travel to Washington, DC, so that he could lobby with the National Council on Teachers' Retirement as a member of their legislative committee if the need arises, and for Vivian Hammill to attend the National Association of Public Pension Plan Attorneys annual conference at the end of June in Chicago. Mr. Turcotte moved to approve the out-of-state travel requests, Mr. Dubbs seconded. Motion carried.

Board of Investments Report – Tim Ryan – Mr. Ryan explained that the Montana's Public retirement Systems would not be adversely impacted by the Enron incident. Mr. Ryan also expressed his concerns for the ability of the Board of Investments to meet the actuarial rate of return of 8% under the current market conditions.

Financial Statements, Budgets, Delinquent Agency and Travel Reports – Ms. Rau called the Board's attention to the documents, provided an overview, and invited the Board to ask questions regarding the reports. Ms. Rau pointed out that there was a surplus of about \$108,000.00 in the budget due to the vacant positions, and the delay in implementing the PeopleSoft.

## **Legal Counsel Report.**

Contested Case Strategy - Mr. Ryan directed that the next agenda item be closed to the public so that the Board may receive advice of counsel and discuss strategy in a legal matter.

Meeting adjourned.







**TEACHERS' RETIREMENT BOARD MEETING**  
**February 8, 2002**

Chairman Ryan called the meeting to order at 8:30 a.m. in the conference room of the Board of Investments, 2401 Colonial Drive, Helena, Montana. Those present were:

Tim Ryan, Chairman  
Jim Turcotte, Vice Chairman  
Emily Hall Bogut  
Scott Dubbs  
Barbara Foster  
David L. Senn, Executive Director  
Tammy Rau, Assistant Executive Director  
Vivian Hammill, Legal Counsel

Others present were:

Mark Olleman – Milliman USA, Jim Penner – BOI, Mike O'Conner – PERS, Karen Wynne – TRS, Jerry Pauli – Thompson Falls Schools, Eric Feaver – MEA/MFT, Dave Puyer – MREA, Bob Voth – Ronan Schools, Glen Leavitt – Montana University System, Chris Arterburn – MSU – Bozeman, Loran Frazier – School Administrators, Diane Huber – Retired Teachers Association, Bob Vogel – Montana School Boards Association

**Adopt Agenda.**

Mr. Ryan called for additions or changes to the Agenda. Mr. Senn asked the Board to add a request for out-of-state travel to the agenda. Mr. Turcotte moved to adopt the agenda as amended, Ms. Bogut seconded. Motion carried.

**System Funding/Legislation.**

Cash Flow Presentation – Mark Olleman of Milliman USA gave a presentation on funding concepts, cash flows, investment risks and benefit improvements. Mr. Olleman explained the fund had experienced very good returns in the 1990's; however, because returns are not as high as they had been in the past, the Board needs to be cautious about funding any additional enhancements. Mr. Olleman provided examples of the costs and the affect on the unfunded liability of benefit enhancements and reminded the Board that it was very hard to increase benefits without more income for the system.

Legislative Proposals – Mr. Senn commented on past legislation regarding working retirees, two percent benefit formula and increasing GABA to three percent. Mr. Ryan opened the meeting for public comment.

Public Comment

Mr. Jerry Pauli – Superintendent of Schools in Thompson Falls, representing Northwest Superintendents – Mr. Pauli thanked the Board for allowing the meeting to take place so that he could express his concerns. His concern is the quality of teachers in Montana and





that the students have the best instruction that can be provided in the classroom as well as leadership. Salaries are not competitive in Montana and too many teachers retire and leave to teach in a state with larger salaries once they have 25 years in the system. Mr. Pauli supports the two percent multiplier at 30 years. He believes this would help hold qualified teachers. Mr. Pauli also suggested that a teacher should be allowed to retire at 25 years, draw their retirement and continue to teach. He proposed that while a teacher continues to teach they would contribute to the Teachers' Retirement System and the district would also contribute, but rather than go into the teacher's individual account, the contributions would go into the system, which would make TRS more solvent. The teacher would not receive any additional benefits from working after retirement. Mr. Pauli urged everyone to get together and support the same legislation and get it passed.

Eric Feaver – MEA/MFT – Mr. Feaver represents about 13,000 active teachers and about 500 retirees. He distributed their retiree newsletter. Mr. Feaver stated that Mr. Pauli accurately stated the problem with teachers leaving Montana agreed that MEA/MFT supported the two percent multiplier at 30 years or any year thereafter. Mr. Feaver said that his organization hoped that TRS would go that direction with the legislation and feels that this is a cheaper alternative than other suggestions he has heard. MEA/MFT will not support an increase in employee contributions to fund the increase and supports the necessary funding be raised from either the county wide retirement levy or the state general fund or both. Something must be done to help retain college graduates in Montana. MEA/MFT does not support the three percent GABA at this time.

Loran Fraizer – School Administrators – Mr. Fraizer agrees that the two percent multiplier should be part of the legislation. Other states recruit more heavily to draw the current teachers and new graduates away from Montana. Mr. Fraizer posed two questions to the Board. The first was could the number of days that a retired teacher can work without affecting their retirement benefits be increased as some other states are doing. The second one is what about retirement at 30 years and start a new account at the higher salary and become vested again in five or ten years and why isn't that actuarially sound and if that would be viable, they would support legislation to have the county levy pay the additional funds. At the current time, administrators are retiring, collecting a TRS benefit and continuing to work at one-third of their final average salary, but additional compensation is being paid into other funds or accounts on the retiree's behalf and TRS is losing the contributions on those funds. Mr. Fraizer suggested that the various associations may be willing to help with the cost of a study to look at what the other states are doing.

Diane Huber – Retired Teachers' Association President – The retired teachers' support the increase in the GABA. Ms. Huber talked about the hardships on the older retired teachers that have very low monthly benefits.

Bob Vogel – Director of Governmental Relations at Montana School Boards Association – Mr. Vogel states that he agrees with all of the previous speakers on the recruitment and retainment concerns and supports the two percent multiplier coming from the county retirement levy and the state general fund.





Dave Puyer – Montana Rural Education Association – Mr. Puyer supports the two percent multiplier. Many of the teachers and administrators that have been discussed are in the rural schools across the state. The rural schools are especially hard hit because of the low salaries.

A discussion followed between the public members present, the Board and Mark Olleman regarding funding sources and the impact on the Teachers' Retirement System. The salaries are a problem that the retirement system cannot necessarily solve. Montana teacher salaries are predicted to be at the bottom of the nation within the next two years. Any solution involving the retirement system must include a funding source.

Dave Lewis – Representative for House District 35 – Sponsor of the GABA retirement bill, House Bill 294 – Mr. Lewis feels that there will be resistance to any proposal to increase retirement benefits based on the resistance he encountered over HB 294. Mr. Lewis agrees with the legislation, but feels that it will be a tough session. Mr. Lewis is planning to introduce a bill using the coal trust as a source of money to repay a portion of student loans. He will argue that it is an investment in the future of Montana to retain teachers and keep the younger teachers coming into the system.

Chairman Ryan asked for additional comments. Hearing none, Mr. Ryan thanked Mr. Olleman for his excellent presentation and thanked the members of the public that attended.

### **Executive Director's Report.**

Out-of-State Travel – Mr. Senn asked the Board to approve out-of-state travel to send the newly hired IT Manager, Dave Swenson, to Key West, Florida at the end of April for a Public Retirement Information System Managers (PRISM) annual meeting. Mr. Turcotte moved to approve the out-of-state travel and Mr. Dubbs seconded. Motion carried.

Funding Policy – The Board discussed the draft funding policy that was provided to them and Mr. Olleman gave an overview of what a funding policy should contain. After discussion the Board agreed that Mr. Senn would work with Mr. Olleman to rewrite the last paragraph and bring the funding policy to the May meeting for adoption.

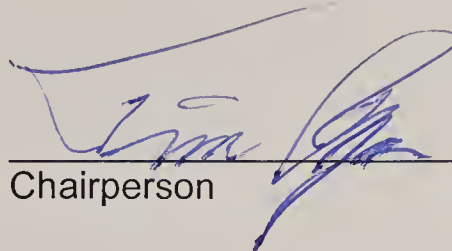
Discussion took place about a meeting being held out of town to give interested persons in other areas of the state the opportunity to attend a Board meeting. The May meeting will be held in Helena and an out-of-town meeting will be considered for September.

Executive Summary – Mr. Senn reported that Sandra Donahue had been hired to work with the inactive, non vested accounts and try to get some of those older accounts taken care of. David Swenson has been hired as the new IT manager. The payroll benefits position is still open. The announcement has been changed in an attempt to attract applicants that are more qualified. The New York City Teachers' Retirement System sent a thank you for the Montana huckleberry taffy that TRS sent. There has been a meeting with the PeopleSoft folks and a demo of the revised pension administration product tentatively scheduled for the April.



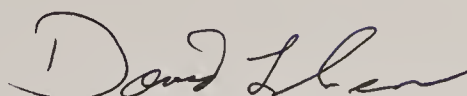


The Chair asked for any other business to come before the Board at this time. Hearing none, the Chair asked for a motion. Ms. Bogut moved to adjourn the meeting, Ms. Foster seconded. Motion carried. The meeting adjourned at noon.



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Chairperson



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Executive Director





**TEACHERS' RETIREMENT BOARD  
CONFERENCE CALL  
March 25, 2002**

Chairman Tim Ryan called the meeting to order at 7:35 A.M. The Board members in attendance were Chairman Ryan, Scott Dubbs, and Jim Turcotte. The TRS staff in attendance were David L. Senn, Tammy Rau, Vivian Hammill and David Swenson. Others present were Bryan Wolf, CIO, Information Technology Services Division (ITSD) and Walt Carter, P3 Consulting Group.

**Adopt Agenda.**

Chairman Ryan called for additions or changes to the Agenda. Mr. Senn asked that the Board add two items, Out of State Travel and Mr. Prokop to the agenda. Mr. Turcotte moved to adopt the agenda with the additions and Mr. Dubbs second. Motion carried. Mr. Ryan asked for a roll call of the Board. A roll call was conducted; members Tim Ryan, Scott Dubbs and Jim Turcotte were present. Members Emily Bogut, Randy Durr and Barbara Foster were absent.

**KPMG/PeopleSoft Pension System.**

Mr. Senn summarized the proposed project to validate and review the KPMG/PeopleSoft Pension Integration Project. Beginning on April 1, through April 30, 2002, the TRS project manager, Allan Lansche, together with Tim Peterson of KPMG, and a representative from ITSD will work as a team to complete the proposed project plan. It is expected that this analysis will result in either a Workplan to move the project forward to completion, or produce other options for the Board to consider when they meet on May 10, 2002. Mr. Wolf and Mr. Carter also spoke in favor of the proposal and their desire for a successful outcome. Mr. Turcotte moved to proceed one last time to validate and review the PeopleSoft Pension Project as proposed and to approve the consulting contract with P3 Consulting Group for Project Manager services, Mr. Dubbs seconded, motion carried with all members present voting aye.

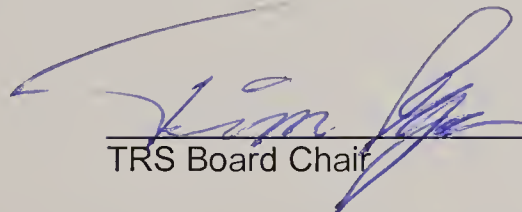
**Prokop Petition.**

Mr. Senn gave a status report on the change approved by the Board in February to change Mr. Prokop's retirement option because of the apparent forgery of his wife's signature. The Board's motion required that the resulting overpayment be recovered from future monthly benefits with interest at 8 percent. Mrs. Prokop's attorney has asked that the Board apply the benefits now due her for January, February and March toward the overpayment and that the interest be waived. Mr. Senn suggested that this issue be placed on the May 2002 agenda for consideration by the full Board, hearing no objections, the chair so ordered.

**Out-of-State Travel.**

Mr. Senn requested that the Board authorize out-of-state travel for Mr. David Swenson to attend VMS Operating System training in Denver Colorado, in lieu of attending the PRISM conference. Mr. Dubbs moved to approve the change in out-of-state travel, Mr. Turcotte second, motion carried.

**Adjournment.** Meeting adjourned at 7:55 a.m.

  
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TRS Board Chair

  
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Executive Director





**TEACHERS' RETIREMENT BOARD MEETING**  
**May 10, 2002**

Chairman Ryan called the meeting to order at 8:30 a.m. in the conference room of the Teachers' Retirement System, 1500 East Sixth Avenue, Helena, Montana. Those present were:

Tim Ryan, Chairman  
Jim Turcotte, Vice Chairman  
Emily Hall Bogut  
Scott Dubbs  
Randy Durr  
Barbara Foster  
David L. Senn, Executive Director  
Tammy Rau, Assistant Executive Director  
Vivian Hammill, Legal Counsel

Others present were:

Pam Niklas, David Swenson and Janet Cooper – TRS Staff, Brian Wolf – ITSD, Stuart Kellner – Attorney, Donna Cain – KPMG, Alve and Charlotte Thomas – Retired Teachers, Janice and Chuck Knudson – Disability Applicant

**Adopt Agenda.**

Mr. Ryan called for additions or changes to the Agenda. Hearing no additions or changes, Mr. Ryan asked for a motion for approval. Ms. Bogut moved to approve the agenda, Mr. Turcotte seconded, motion carried.

**Approval of Minutes for February 7 & 8, 2002 and Conference Call of March 25, 2002.**

Mr. Ryan asked if there were any additions or corrections to the minutes. Mr. Ryan asked that, for clarification, at the end of page one and the beginning of page two, Option Normal Form and Normal Form Option be standardized. Mr. Dubbs moved to approve the minutes as corrected, Ms. Foster seconded, motion carried.

**KPMG/PeopleSoft System.**

Mr. Senn introduced Brian Wolf of ITSD and Donna Cain of KPMG and gave an overview of the information provided to the Board. Mr. Wolf presented the Project Plan to the board and stated that he was comfortable that this is an appropriate framework to bring a successful project home. Mr. Wolf discussed what TRS might be giving up in terms of functionality in going with this plan and the KPMG commitment to this project. He explained the importance of everyone working together as a team under this plan. Mr. Ryan stated that he likes KPMG's new approach to resolving this issue, but feels that someone else needs to analyze KPMG's work, such as P3 Consulting. Mr. Wolf thinks that KPMG can handle resolving this issue and explained to the Board that the Chief Information Officer will work closely with TRS and KPMG and explained about the sanity





gates that are built into this work plan. After discussion among the Board members, Chairman Ryan directed that the meeting should be closed to the public so that the Board may receive advice of counsel and discuss strategy in a legal matter.

The meeting was reopened to the public.

Mr. Ryan asked for a motion on the KPMG/PeopleSoft issue. Mr. Turcotte moved to enter into a work plan with KPMG provided unanswered issues concerning items such as KPMG staffing and functionality are satisfactorily addressed in the work plan. Ms. Foster seconded, motion carried unanimously. Mr. Ryan asked for any other motions. Mr. Turcotte moved that TRS hire P3 Consulting Group to be the Teachers' Retirement System Project Manager to oversee the workplan and advise the Board at sanity gates 1 and 2 about the success or failure of the plan. Mr. Durr seconded, motion carried unanimously.

The Board moved to the Other Business item on the agenda as Charlotte and Alve Thomas were present.

Mr. Senn reviewed the Retired Teachers' Association request for assistance in getting information out to retired teachers in an attempt to recruit new members. Mr. Senn explained that the Retired Teachers' Association has been a great help to the Teachers' Retirement System over the years and if they cannot maintain their membership, they may not be able to continue to assist the Board. The Retired Teachers have asked that TRS mail a card that provides information about the retired teacher organizations in Montana. Mr. Senn explained the problems that TRS would run into with the state's mail system and the solicitation issue, but offered to put the same information in the next newsletter provided to retired teachers. Mr. Senn also suggest that if the Retired Teachers' Association obtains a website, TRS would provide a link to that site from our website. Mr. Dubbs suggested that the same information provided in the newsletter could also be posted to the TRS website. Mr. Senn agreed that could be done. Mr. Dubbs moved to adopt the Executive Director's recommendation with regard to the Retired Teachers' Association request for assistance and extend that assistance to any retired teacher organization that meets the 503(c) non-profit designation, Ms. Foster seconded, motion carried. Mr. and Mrs. Thomas thanked the Board and explained how helpful distribution of the information can be to their organization.

Mr. Ryan directed that the next item on the agenda would be the Legal Counsel Report and the Emily Prokop matter. The Board, Emily Prokop and Ms. Prokop's attorney, Rich Batterman were joined together by conference call. Ms. Hammill gave a summary of the case before the Board and explained that Ms. Prokop was before the Board today asking that interest not be charged on the repayment of benefits owed the TRS. Ms. Prokop, through her attorney requested that the benefit payments she had not yet received for January through April be applied toward the balance due TRS, if TRS agrees to waive the interest on the overpayment.





Mr. Senn explained that the summary mailed to the Board and Ms. Prokop incorrectly stated that the date upon which the Twenty Year Certain and Life would terminate as June 31, 2017, and should have read May 31, 2017. He also advised the Board that Mr. Batterman had certified that Mr. Prokop had not purchased life insurance and that the only insurance policy at the time of Mr. Prokop's death was worth about \$11,000.00.

Ms. Hammill asked Mr. Batterman to address the Board regarding the interest issue. Mr. Batterman introduced himself and thanked the Board for the opportunity to address them via conference call. Mr. Batterman explained that Ms. Prokop is the victim of a fraud perpetrated upon her by her husband and that is the basis of their request for the interest waiver. Mr. Batterman stated that Mr. Prokop changed the election from Option A to the Normal Form without Ms. Prokop's knowledge and therefore requests that the Board consider changing the benefit to Option A. Mrs. Prokop has not received any benefits from TRS and does not qualify for Mr. Prokop's social security benefits until age 60. Mr. Batterman argues that no interest should be due as there was not an error on Mrs. Prokop's part.

Mr. Ryan asked for clarification on Mr. Batterman's request on the change of the option from the Twenty Year Certain and Life to Option A. Mr. Batterman stated that Ms. Prokop was concerned about her financial well being in the future. Mr. Senn asked for clarification because the first letter that TRS had received stated that Ms. Prokop believed that Mr. Prokop had selected Option B and not Option A and asked Mr. Batterman if there was any documentation stating what Mr. Prokop's intent was. Mr. Batterman said there was no documentation, only Mrs. Prokop's understanding of Mr. Prokop's intention. Mr. Batterman stated they were asking for a modification for Mrs. Prokop's financial well being and asking that the interest be waived because the rule regarding interest speaks to errors. Mr. Senn advised that any change in the option will change the principle repayment that is due to TRS.

Mr. Durr asked Ms. Hammill if, in her legal opinion, this was a correction of error or a settlement. Ms. Hammill said it was neither. The Board is trying to do what is just and fair in an area where a forgery was committed. The correction of error rule was not written with this situation in mind. The facts in this case are unique and it does not have a lot of precedential value.

Mr. Durr moved to waive interest as requested by Mr. Batterman with the justification that it was not Ms. Prokop's fault. Ms. Foster seconded. Mr. Dubbs asked if the motion waived only the interest to date or all interest, including interest on future payments. Mr. Batterman stated that their request is for no interest to be assessed on the repayment, both lump sum and monthly. Mr. Durr stated that his motion was for no interest to be charged at all. The Board had further discussion. Mr. Ryan restated the motion on the table was to waive all interest on the total amount due under the current agreement to withhold \$408.22 per month from future monthly benefits until the amount is paid in full, or approximately five months. Motion carried.



Ms. Prokop stated that she was in agreement with the actions of the Board to award her the benefit based on the 20-year certain and life option and that she would not pursue her request for option A or B. Mr. Batterman confirmed that Ms. Prokop was in agreement on all points. Mr. Senn advised that legal counsel would prepare a Memorandum of Understanding, which would be mailed to Mr. Batterman for signatures.

#### **Executive Director's Report.**

Interest Rate Credited to Member Accounts – Mr. Turcotte moved to set the interest rate credited to member's accounts at four and one-half percent effective July 1, 2002, and to retain the current rate on service purchase contracts. Ms. Bogut second, motion carried.

TRS Investment Policy Statement – Mr. Turcotte moved to accept the investment policy statement as proposed by the Board of Investments. Mr. Dubbs seconded, motion carried.

TRS Funding Policy – The Board and all interested persons were provided with a copy of the TRS Funding Policy containing the suggested revisions requested by the Board in February. Mr. Durr moved to adopt the policy, Ms. Bogut seconded. Motion carried.

Post Retirement Contracts – Mr. Senn reported that the number of questions regarding the maximum retirees can earn under 19-20-804, MCA and what is excluded from earned compensation has greatly increased over the past two - three years. Also, the value of fringe benefits not included in the definition of earned compensation has increased significantly. The Board directed Mr. Senn to work with the various organizations that represent TRS members and review options for legislative change if necessary.

Executive Summary – Mr. Senn reported that Johnelle Doney has been hired to fill the Accounting Specialist/Payroll Benefit Technician position, and that Dan Gaughan has been hired to fill the Accountant/Fiscal Manager position.

#### **Legal Counsel Report.**

Contested Case Update – Ms. Hammill reported that oral arguments on the Merle Farrier case were heard by Judge McCarter on March 8, 2002 and that we were awaiting a decision.

#### **Other Business.**

Revised Retirement Application and Other Forms – The Board discussed requiring that member signatures be notarized. Mr. Durr moved that once existing supplies are exhausted, that new applications for payment of benefits require that the member and beneficiary signatures be notarized, Mr. Turcotte seconded, motion carried.

Surplus Property Resolution – Mr. Turcotte moved to approve the Surplus Property Resolution, Ms. Foster seconded, motion carried.

TRS 2003 Budget – Ms. Rau presented the 2003 Budget to the Board. Mr. Dubbs moved to approve the budget, Ms. Bogut seconded, motion carried.





Out of State Travel Requests – Mr. Turcotte moved to approve the out of state travel for two Board members and the Executive Director to attend the annual NCTR convention or the NCTR trustee summer workshop. Mr. Dubbs seconded, motion carried.

Investments Report – Mr. Ryan reported that the market is back to a more normal trend and reminded the Board that actuarial returns will be based on a five-year average because of the smoothing process.

Competency Based Pay Plan – Mr. Senn explained the new pay plan to the Board and asked for their comments and suggestions on the performance appraisal form included in the Board packet. The Board agreed to leave the previous two member personnel committee in place and they will meet prior to each board meeting in the future to monitor the new pay plan.

Financial Statements & Delinquent Agency Reports – Ms. Rau gave the Board an overview of the financial statements and budget report.

Next Meeting Dates – September 6 and November 15, 2002

The Board moved to the Disability portion of the agenda since Ms. Knudson and her husband were present to address the Board.

### **Disabilities.**

Disability Applications - The Chair directed the meeting closed to review the disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

The meeting was reopened to the public.

Mr. Turcotte moved to approve the disability for Christine Moore, Mr. Dubbs seconded. Motion carried.

Mr. Turcotte moved to table the disability application for Janice Knudson until further documentation is received, Ms. Bogut seconded. Motion carried.

Annual Disability Reviews – Mr. Turcotte moved to approve staff recommendation that the disability retirees named be excluded from future annual, medical and earnings reporting requirements, Ms. Foster seconded, motion carried.

### **2003 Legislation.**

Executive Planning Process – Board Proposals – Mr. Senn reviewed the legislative proposals that were submitted as required by the executive planning process. The housekeeping proposal incorporated the requirements of the Economic Growth and Tax Relief Reconciliation Act of 2001 with general housekeeping items. Also submitted was the





proposal to increase the benefit multiplier to two percent for individuals that retired with at least 30 years of service and at least age 55. This proposal would not be effective until 2005.

Other Proposals – No other proposals were presented.

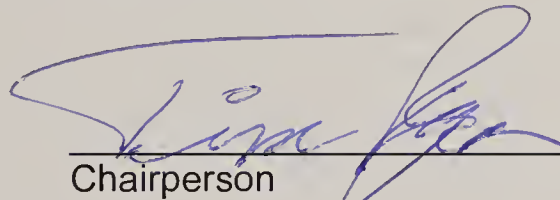
Public Comment – There was no public comment.

**Approval of Applications and Benefits.**

Regular, Survivorship & Adjustments – The Board agreed that they would like to see something on the report that would identify if the retiree were a teacher or an administrator. Mr. Durr moved to approve, Mr. Dubbs seconded, motion carried.

The Chair directed that the next meeting be held in Billings.

The Chair asked for any other business to come before the Board at this time. Hearing none, the Chair asked for a motion. Mr. Durr moved to adjourn the meeting, Mr. Dubbs seconded. Motion carried. The meeting was adjourned at 3:00 p.m.



Chairperson



Executive Director



**TEACHERS' RETIREMENT BOARD MEETING**  
**September 6, 2002**

Chairman Ryan called the meeting to order at 8:35 a.m. in the Lincoln Center Board Room, 27 N 27th Street, Billings Montana. Those present were:

Tim Ryan, Chairman  
Jim Turcotte, Vice Chairman  
Emily Hall Bogut  
Scott Dubbs  
Barbara Foster  
David L. Senn, Executive Director  
Tammy Rau, Assistant Executive Director  
Vivian Hammill, Legal Counsel

Others present were:

Pam Watson, TRS Staff; Marjorie Metcalfe and Lou Bonini, Retired Teachers; Tom Bilodeau, MEA-MFT; Brian Ehli, Billings Education Association.

**Adopt Agenda.**

Mr. Ryan called for additions or changes to the Agenda. Mr. Senn asked that a report on inactive accounts be added to the agenda under Other Business. Mr. Ryan asked for a motion for approval. Ms. Bogut moved to approve the agenda including the report on inactive accounts, Mr. Dubbs seconded, motion carried.

**Approval of Minutes for May 10, 2002.**

Mr. Ryan asked if there were any additions or corrections to the minutes. Ms. Foster moved to approve the minutes as submitted, Mr. Dubbs seconded, motion carried.

**Executive Director's Report.**

Actuarial Experience Study – Mr. Senn distributed and reviewed the results of the active member demographic assumptions study for the 6-year period 1995-2001, and recommended actuarial assumption changes. Mr. Turcotte moved to adopt the report and recommended changes, Ms. Bogut seconded, motion carried.

2003 Legislation – Mr. Senn reviewed the draft Teachers' Retirement Board Housekeeping legislation for the 2003 Session and other legislation that will or may be introduced during the session.

The interim legislative committee reviewing pension legislation endorsed the proposal to increase the TRS benefit multiplier from one and two thirds percent to two percent. Mr. Senn reported that he expected that proposals to allow retirees to return to work full time while receiving retirement benefits would also be introduced. A letter from Charles Strand was distributed to the Board, which the Board agreed captured the feelings of many who perceive the Teachers' Retirement System as the problem but who do not understand that





the system is not funded to pay benefits to a member when they first become eligible.

Public Comment – Mr. Bilodeau reviewed the legislative proposals that are of concern to the MEA-MFT.

Mrs. Marjorie Metcalf explained that she elected an option at the time of retirement that reduced her benefit to one half upon the death of her husband, and that because she did not have 25 years, she did not receive either of the minimum benefit adjustments approved by the legislature in 1999 and 2001. She asked the Board to consider legislation that would grant a minimum benefit to retirees with less than 25 years of creditable service. Mr. Turcotte asked that staff review with the TRS Actuary the possibility of granting a similar minimum benefit for retirees with less than 25 years of creditable service, based on years of service, and report the results to the Board at the next meeting.

KPMG PeopleSoft Pension System – Mr. Senn reported that on August 20, 2002, staff met with KPMG to kick-off the Workplan agreed to in the MOU. The first phase of the Workplan will define the TRS business requirements and fully document the system that KPMG built. A comparison of the TRS business requirements with the “as built” system will enable us to determine whether the system meets the TRS’ needs. KPMG will then conduct a walkthrough of the entire system demonstrating the system’s functionality. The results and recommendations will be presented at the next meeting.

### **Legal Counsel Report.**

NAPPA Conference Report – Ms. Hammill thanked the Board for sending her to the NAPPA conference in Chicago. She provided the Board with handouts and an overview of legal cases discussed at this year’s conference.

Case Update – Ms. Hammill reported that In July, Judge Dorothy McCarter issued her order in the Merle Farrier case ruling against the Teachers’ Retirement System. On behalf of the Board, an appeal has been filed with the Montana Supreme Court.

### **Other Business.**

Investments Report – Mr. Ryan reported that the market is back to a more normal trend. He also reminded the Board that the portfolio is conservative, and that actuarial returns are smoothed over a five-year period to avoid large swings in the amortization period created by the return in any one year.

Financial Statements, Delinquent Agency & Travel Reports – Ms. Rau gave the Board an overview of the financial statements and budget reports. Mr. Senn reviewed the travel report.

Inactive Accounts – Ms. Rau provided the Board with an update of the inactive accounts.





Ms. Rau explained that 426 accounts with a balance of \$5,000 or more had been identified, of which, 35 were written-off and 265 received refund applications.

Next Meeting Dates – Mr. Senn asked that the Board reschedule their next meeting from November 15, 2002 to early December. Mr. Senn explained that this would give KPMG additional time to complete the documentation, testing and walkthrough of the “as built” system. Mr. Turcotte moved to reschedule the meeting for December 6, 2002, Mr. Dubbs seconded, motion carried.

Contract for Imaging Services – The Board reviewed a proposal from the Information Technology System Division (ITSD) to move the TRS imaging system, which is housed at the Teachers’ Retirement System, to a centralized imaging center. Moving to a centralized imaging system would almost triple current imaging costs, but would result in improved backup and disaster recovery procedures. Mr. Turcotte moved to maintain our current system but to continue to negotiate with ITSD regarding their services, Ms. Bogut seconded, motion carried.

TRS 2003 Budget – Ms. Rau presented the revised 2003 Budget. The revised budget included the project management services of P-3 Consulting Group to assist the TRS staff working on the KPMG/PeopleSoft project, and the cost to continue to house the development sever required for this project at ITSD. Mr. Dubbs moved to approve the revised budget, Mr. Turcotte seconded, motion carried.

Competency Based Pay Plan – Mr. Senn and Ms. Rau reported the TRS has entered the training phase of implementing the Competency Pay System and that through December staff will be working on competency based performance appraisals to fine-tune the tool and continue to learn to use the system. Staff also reviewed the steps completed to date and asked the Board for direction on implementing market adjustments. Mr. Dubbs moved to implement market adjustments effective September 7, 2002, to authorize the Executive Director to establish a cap on market adjustments, and to establish a compensation committee made up of the Board’s Personnel Committee members and TRS staff appointed by the Executive Director, Ms. Foster seconded, motion carried.

### **Approval of Applications and Benefits.**

Regular, Survivorship & Adjustments – The Board reviewed the list of members who had retired during the prior quarter and the benefit adjustments processed by staff.

### **Disabilities.**

Disability Applications - The Chair directed the meeting closed to review the disability applications since the individual’s right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

The meeting was reopened to the public.

Mr. Turcotte moved to approve the disability application for Timothy Ferriter, Sari Fichtner,



Roger J. Grammond, Nancy Hampton, Douglas M. James, Launa C. Lackey, and Theodore P. LaCroix, Mr. Dubbs seconded. Motion carried.

Mr. Turcotte moved to disapprove the disability application for Karen Ann Day, Mr. Dubbs seconded. Motion carried.

Mr. Turcotte moved to table the disability application for Kristin St. Goddard until further documentation is received, Ms. Bogut seconded. Motion carried.

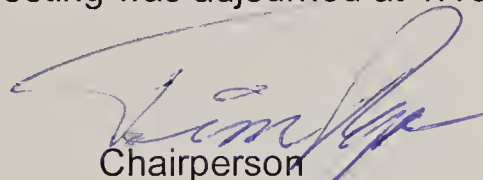
Mr. Turcotte moved to disapprove the disability application for Janice A. Knudson. Motion died for lack of second. Mr. Dubbs moved to table the disability application for Janice Knudson until further documentation is received, Ms. Bogut seconded. Motion carried.

### **Election of Officers**

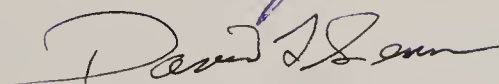
Mr. Ryan opened nominations for Chair. Mr. Turcotte nominated Mr. Dubbs for the position of Chair and Ms. Bogut for the position of Vice Chair. Mr. Dubbs asked that his name be withdrawn from nomination and asked that he be appointed to the Personnel Committee. Mr. Turcotte withdrew the motion. Ms. Foster nominated Mr. Ryan for Chair and Mr. Turcotte for Vice Chair, Ms Bogut seconded. Hearing no further nominations, Mr. Ryan called for the motion. The motion carried with Mr. Ryan and Mr. Turcotte abstaining. Mr. Ryan was elected Chair and Mr. Turcotte was elected Vice Chair.

The Chair appointed Scott Dubbs and Emily Bogut to serve on the Personnel Committee.

The Chair asked for a motion to adjourn. Mr. Durr moved to adjourn the meeting, Mr. Dubbs seconded. Motion carried. The meeting was adjourned at 1:15 p.m.



Chairperson



Executive Director





**TEACHERS' RETIREMENT BOARD MEETING**  
**December 5, 2002**

Chairman Ryan called the meeting to order at 8:43 a.m. in the Board of Investments Conference Room, 2401 Colonial Drive, Helena, Montana. Those present were:

Tim Ryan, Chairman  
Jim Turcotte, Vice Chairman  
Emily Hall Bogut  
Scott Dubbs  
Barbara Foster  
David L. Senn, Executive Director  
Tammy Rau, Assistant Executive Director  
Vivian Hammill, Legal Counsel

Others present were:

Verne Beffert, Montana Association of School Superintendents; Kelly Gorin, Office of Budget and Program Planning; Dori Nielson, Retired Education Consultant; Jerry Pauli, Columbia Falls; Mark Olleman, Milliman USA; James R. Penner, Board of Investments; Carrol South, Board of Investments; Jim Kembel, TIAA-CREF; Dan Gaughan, David Swenson, Karla Scharf and Pam Watson, TRS Staff.

**Adopt Agenda.**

Mr. Ryan called for additions or changes to the Agenda. Hearing none, Mr. Ryan asked for a motion for approval. Ms. Bogut moved to approve the agenda, Mr. Turcotte seconded, motion carried.

**Approval of Minutes for September 6, 2002.**

Mr. Ryan asked if there were any additions or corrections to the minutes. Ms. Foster moved to approve the minutes as submitted, Ms. Bogut seconded, motion carried.

**Fiscal Year 2002 Investment Report**

Mr. Jim Penner and Mr. Carroll South provided a review of investment performance of the Teachers' Retirement System for fiscal year 2002, and shared their expectations for the current fiscal year. Their report advised that approximately 70% of Teachers' Retirement System funds are invested in the Retirement Fund Bond Pool and Montana Domestic Stock Pool, the balance was spread between international equities, mortgages, private equities and cash. Additionally, they reported that the Teachers' Retirement System investments have been impacted in the same capacity as other investments due to the current market situation. However, they are optimistic for future investment trends to be on the rise.



## **Actuarial Valuation**

Mark Olleman of Milliman USA reviewed the results of the 2002 Actuarial Valuation. The Teachers' Retirement System has an unfunded actuarial accrued liability of \$383.5 million and an amortization period of 23.4 years. The System is currently actuarially sound. According to the results, it is apparent that future funding changes will be necessary in order to maintain an acceptable amortization period. Due to the fact that TRS losses are smoothed over a five year period, during the next several years the full impact of actuarial losses will be realized. Therefore, unless investment returns improve, it is likely that contribution rates will have to be increased in the future.

## **2003 Legislation**

Mr. Senn reviewed legislation that will be presented to the 2003 legislature. Mr. Senn advised the Board that two of the bills were action items and required motions by the Board. Mr. Turcotte moved to approve the TRS Housekeeping bill, Ms. Foster seconded, motion carried. Mr. Dubbs moved to approve the Minimum Benefit Adjustment legislation, which includes an increase of .15% to the current employer contribution rate. Ms. Bogut seconded, motion carried.

Several individuals in the audience presented support and justifications for the 2% Professional Retirement Option (PRO).

## **Public Comment**

Public comment was heard from Verne Beffert, Montana Association of School Superintendents; Kelly Gorin, Office of Budget and Program Planning; Dori Nielson, Retired Education Consultant; and Jerry Pauli, Columbia Falls on proposed legislation and how it may affect active and retired members. Additional public comment was heard from several retired members concerning the impact of proposed legislation on retirees and the need for an increase in GABA.

## **Individual Petitions**

Ms. Patricia Smith asked the Board allow the recalculation of her retirement benefits. Ms. Smith's monthly retirement was suspended in May 2001 due to return to work in a TRS covered position, with a salary exceeding the 1/3 earnings limit. She accrued a total of .78 year of service credit during her return to work, which spanned May 2001 – May 2002. Statute requires that the equivalent of 1.00 year additional service be earned in order to qualify for a recalculation of benefits, therefore Mr. Turcotte moved to deny Ms. Smith's petition, Ms. Foster seconded. Motion carried.

## **PeopleSoft Pension Administration System**

Mr. Rod Shepherd and Mr. Steve Fehr from BearingPoint, formerly KPMG Consulting, reviewed their position with regard to the PeopleSoft project. Mr. Fehr reported that in BearingPoint's estimation, 90% of the project has been completed to date, and that it would take three months to complete the remaining 10%. The estimated cost to complete the existing project was \$1 million dollars. In addition, the projected date to deliver full use of the system was 9 months. Mr. Fehr recommended that the Teachers' Retirement





System continue with the PeopleSoft Integration project, but with a vendor other than BearingPoint. He explained that there was too much animosity and lack of trust, which would not be conducive to a successful project.

Mr. Senn summarized the written report and recommendation provided to the Board prior to the meeting. Mr. Senn gave an overview of the position of the Teachers' Retirement System Board and staff, based upon the results of the work completed by BearingPoint under the agreed upon Memorandum of Understanding (MOU) and Workplan. As discussed in the report, it is the recommendation of staff that further review of this product cease. Based upon the unsuccessful demonstration of the system, lack of timely delivery of the documentation agreed to under the MOU, and the inability of TRS to accurately predict the true scope of the cost, time and organizational/staff impact required to implement the product, TRS concluded that it would not be meaningful to proceed with BearingPoint to the next level of product review.

Mr. Brian Wolf, State CIO, introduced Derek Scoble who presented the ITSD Independent Verification and Validation (IV&V) report. Mr. Scoble explained that the initial IV&V report was being provided to TRS and BearingPoint for review and comment. A final IV&V report will be submitted to Mr. Wolf after responses are received from both TRS and BearingPoint regarding issues addressed in the initial IV&V report. In his IV&V summary, Mr. Scoble indicates Phase I and II project management execution lacked tight control; initial BearingPoint resource levels constrained timely work execution and products; and the "as built" system was not test ready for the walk through and required significant effort to return to test condition, required daily fixes to proceed during the walk through, and demonstrated less than full functionality. Mr. Scoble concludes his report stating that significant work is required to fulfill the MOU. Mr. Scoble confirmed that comments and responses were due to ITSD and that his final report would be completed within two weeks.

Mr. Ryan asked Mr. Fehr if he could reply within the time schedule outlined by Mr. Scoble. Mr. Fehr responded that there would not be any problem responding to the draft IV&V report by December 12.

Mr. Turcotte moved to cease further development under the Memorandum of Understanding pending the final IV&V report. Ms. Bogut seconded the motion, which carried, with Ms. Foster absent. In addition, a January 6<sup>th</sup> conference call was scheduled to allow the Board to make a final decision concerning continuance of the PeopleSoft project. If a final IV&V report could be reviewed by Board members prior to December 23, 2002, it was decided that the conference call would be rescheduled for December 23.

#### **Executive Director's Report.**

January 1, 2003 GABA Increase – Mr. Senn reported to the Board that based on less than desirable investment performance and the increase in the amortization period as of July 1, 2002, sufficient funds were not available to increase GABA above 1.5 percent at this time. Ms. Foster made a motion to not increase GABA above 1.5%. Mr. Turcotte seconded the motion, which carried.



Executive Summary – Mr. Senn reported that the Legislative Auditor's Office is in the final stage of completing the compliance and financial audit of the Teachers' Retirement System, and that staff expects an unqualified opinion with no recommendations.

Mr. Senn also updated the Board on the status of the repayment agreement on the account of Steve Prokop. Effective with the November 2002 payroll, the overpayment has been repaid to TRS.

### **Other Business.**

Next Meeting Dates – Mr. Senn asked the Board approve the next meeting dates of February 14, May 9<sup>th</sup>, September 5<sup>th</sup>, and November 14. Ms. Foster moved to approve the dates with a change to February 7 instead of the 14<sup>th</sup>. Ms. Bogut seconded, motion carried.

Out of State Travel – Mr. Senn requested the Board approve his participation in the 2003 NCTR Legislative Committee meeting February 1 – 4, 2003, in Washington, DC. Mr. Turcotte moved to approve Mr. Senn's request, Mr. Dubbs seconded, motion carried.

Financial Statements, Delinquent Agency & Travel Reports – Ms. Rau gave the Board an overview of the financial statements and budget reports. The Board asked that their position of discouraging delinquent reports be noted in the record and that their concern regarding this issue be expressed in the official Board minutes.

Inactive Accounts – Ms. Rau provided the Board with an update of the inactive accounts. Ms. Rau explained that 666 accounts had been identified, with more than 277 having been paid.

### **Legal Counsel Report.**

Case Update – Ms. Hammill reported that the reply brief has been filed with the Supreme Court regarding Mr. Ferrier, and she should be notified by January or February 2003 whether oral arguments will be heard.

### **Approval of Applications and Benefits.**

Regular, Survivorship & Adjustments – The Board reviewed the list of members who had retired during the prior quarter and the benefit adjustments processed by staff.

### **Additional Board Discussion**

There was additional discussion by the Board concerning the Professional Retirement Option. Mr. Turcotte asked that it be made clear to Ms. Dori Nielson that it is the concern of the Board that the Professional Retirement Option (PRO) legislation may defeat or contradict early retirement incentives that are consistently provided and offered by employers. Mr. Dubbs asked that a letter be sent to the Montana Associations, advising of the Board's concerns regarding the PRO.





**Disabilities.**

Disability Applications - The Chair directed the meeting closed to review the disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

The meeting was reopened to the public.

Ms. Bogut moved to deny the disability application for Janice Knudson, Mr. Dubbs seconded. Motion carried.

Ms. Foster moved to table the disability application request for Kristen St. Goddard pending an independent medical review. Ms. Bogut seconded. Motion carried.

The Chair asked for a motion to adjourn. Ms. Bogut moved to adjourn the meeting, Ms. Foster seconded, motion carried. The meeting was adjourned at 3:20 p.m.

Chairperson

Executive Director



**TEACHERS' RETIREMENT BOARD  
CONFERENCE CALL  
December 23, 2002**

Chairman Tim Ryan called the meeting to order at 10:45 A.M. The Board members in attendance were Chairman Ryan, Scott Dubbs, Jim Turcotte and Barbara Foster. The TRS staff in attendance was, David L. Senn, Tammy Rau, Vivian Hammill, David Swenson, Pam Watson, Karla Scharf and Dan Gaughan. Others present were Bryan Wolf, CIO, Information Technology Services Division (ITSD) Derek Scoble IV&V Agent, ITSD, Walt Carter, P3 Consulting Group, Ida Sajor and Debra Blossom, Legislative Auditor's Office, and Rodney Sheppard, BearingPoint.

**Adopt Agenda.**

Chairman Ryan called for additions or changes to the Agenda. Mr. Turcotte moved to adopt the agenda as submitted and Ms. Foster second. Motion carried. Mr. Ryan asked for a roll call of the Board. A roll call was conducted; members Tim Ryan, Scott Dubbs, Barbara Foster and Jim Turcotte were present. Emily Bogut was absent.

**KPMG/PeopleSoft Pension System.**

Mr. Senn summarized the results of the first two phases associated with the Memorandum of Understand (MOU) and 5-phase Workplan agreed to by TRS and BearingPoint, formally KPMG CONSULTING. The purpose of the MOU was to assess if the PeopleSoft Pension Integration delivered by BearingPoint could be completed, successfully tested, implemented and accepted by TRS. The project resulted from an extended disagreement between TRS and BearingPoint as to the delivered state of the PeopleSoft system.

Mr. Sheppard advised the Board that a formal letter was being prepared by BearingPoint from Mr. Ron Salluzzo to the TRS chairman, which would state what BearingPoint was willing to do to make this right.

Each of the Board members expressed their disappointment in BearingPoint and felt that it was futile to proceed. Mr. Turcotte moved to stop at sanity gate 1 as provided under the MOU and direct staff to work with legal counsel to negotiate a meaningful monetary solution to the contract obligations of BearingPoint and that the solution be presented to the Board for their comment and approval at the February 7, 2003 meeting. Mr. Dubbs seconds, motion carried.

Ms. Foster lost her connection at 10:50 and returned to the conference call at 10:55. Upon hearing the motion, Ms. Foster voted aye.

**Adjournment.** Meeting adjourned at 11:00 a.m.

  
TRS Board Chair

  
Executive Director





**TEACHERS' RETIREMENT BOARD MEETING**  
**February 7, 2003**

Chairman Ryan called the meeting to order at 8:35 a.m. in the Teachers' Retirement System Conference room, 1500 E. Sixth Avenue, Helena, Montana. Those present were:

Tim Ryan, Chairman  
Jim Turcotte, Vice Chairman  
Barbara Foster  
David L. Senn, Executive Director  
Tammy Rau, Assistant Executive Director  
Vivian Hammill, Legal Counsel

Others present were:

Ida Sajor, Legislative Audit Division; Donna Cain, BearingPoint; Pam Watson, TRS Staff.

**Adopt Agenda.**

Mr. Ryan called for additions or changes to the Agenda. Hearing none, Mr. Ryan asked for a motion for approval. Mr. Turcotte moved to approve the agenda, Ms. Foster seconded, motion carried.

**Approval of Minutes for December 5, 2002.**

Mr. Ryan asked if there were any additions or corrections to the minutes. Ms. Foster moved to approve the minutes as submitted, Mr. Turcotte seconded, motion carried.

**Executive Director's Report.**

Legislative Update – Mr. Senn reviewed the status of several bills that were introduced to the 2003 legislature. HB 154, the TRS housekeeping bill, was passed out of the House State Administration committee on January 28. SB 120, which had passed second reading in the Senate, would allow school boards to contract with a private vendor for teachers, specialists, and administrators. These individuals would not be employees of the district and not eligible to participate in TRS. HB 178 as amended and passed out of committee would allow certain retired teachers and administrators to return to work without loss of benefits; HB 133 (PRO bill) passed the State Administration Committee and was referred to the Appropriations Committee. Mr. Senn also reviewed other TRS related legislation and those bills of interest to the Board.

Executive Summary – Mr. Senn summarized two requests from legislators, the first concerning changes in the monthly reporting practices to differentiate between teachers and administrators, and second, a proposal for a DROP for teachers, maybe even for this



session.

### **Legal Counsel Report.**

Case Update – Ms. Hammill reported that the only new development regarding the Mr. Ferrier case is that she has been advised that the Court will not hear oral arguments.

### **Other Business.**

Out of State Travel – Mr. Senn asked the Board to approve travel for Vivian Hammill to attend the National Association of Public Pension Plan Attorneys (NAPPA) annual conference in San Francisco, CA., June 25-26, 2003. Also, approval was requested for David Swenson to attend the Public Retirement Information Systems Management (PRISM) annual conference in Rancho Mirage, CA, May 18-21, 2003. Mr. Turcotte moved to approve the out of state travel for Ms. Hammill and Mr. Swenson, Ms. Foster seconded, motion carried.

Board of Investment Report - Mr. Ryan reported to the Board concerning recent activities of the Board of Investments. After 10 years of under-performing the index, the assets are beginning to out-perform. Mr. Ryan also indicated that he is optimistic for improvement, and the board members of the Board of Investments will continue to closely monitor the performance.

Alternative Pay Plan Committee Report – Jim Kerins from Communications and Management Services, LLC, gave a detailed report to the Board regarding the status of the Alternative Pay Plan development, and summarized the recommended compensation components and guidelines. A time-line was provided to the Board giving dates of implementation, performance appraisals in the test environment, formal competency and performance evaluation, and the target date for implementation of competency and performance based pay. There was discussion and input from the Board concerning the components and time-line, and Mr. Ryan asked that a budget estimate be provided at the meeting scheduled for May 9.

Financial Statements, Delinquent Agency & Travel Reports – Ms. Rau gave the Board an overview of the financial statements and budget reports.

Inactive Accounts – Ms. Rau provided the Board with an update of the inactive accounts. Ms. Rau explained that 315 accounts had been paid out as a result of staff's research during the past 12 months, and that an additional 900 accounts have been identified that must also be researched.

Next Meeting Dates – Mr. Senn asked the Board to review their calendars concerning the next meeting dates scheduled for May 9, September 5, and November 21.

### **Approval of Applications and Benefits.**

Regular, Survivorship & Adjustments – The Board reviewed the list of members who had retired during the prior quarter and the benefit adjustments processed by staff.





**Disabilities.**

Disability Applications - The Chair directed the meeting closed to review the disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

The meeting was reopened to the public at 11:05 a.m.

Mr. Turcotte moved to approve the disability application for Michael L. Lawson, Ms. Foster seconded. Motion carried.

Ms. Foster moved to disapprove the disability application request for Kristen St. Goddard. Mr. Turcotte seconded. Motion carried.

Discussion was heard by the Board concerning the possibility of contracting with Dr. Jordan of Helena for retention as the TRS contract physician. The Board directed staff to pursue discussions with Dr. Jordan concerning a contract for TRS disability consultation.

**PeopleSoft Pension Administration System**

The Board discussed the letter of January 23, 2003 received from Steve Fehr of BearingPoint, responding to the Board's motion of December 23, 2002 to stop further development of the project at sanity gate 1 as provided under the MOU and request that BearingPoint negotiate a meaningful monetary settlement. It was the consensus of the Board that Mr. Fehr's letter did not respond to the Board's decision to terminate the project and that Mr. Fehr had ignored their request for a monetary settlement.

The Board reviewed a draft response to Mr. Fehr's January 23<sup>rd</sup> letter, which had also been shared with BearingPoint in advance of the meeting. Ms. Cain was asked if she had seen the draft and if she had any comments. Hearing no comments from Ms. Cain, or further discussing, the chair direct that the letter be sent to Mr. Fehr and that if we do not receive a timely response that the Board proceed with the next course of action. Ms. Hammill and Mr. Senn were directed to work with the TRS contract attorney to determine what the next step would be if no response is received from BearingPoint by March 7, 2003.

The Chair asked for a motion to adjourn. Mr. Turcotte moved to adjourn the meeting, Ms. Foster seconded, motion carried. The meeting was adjourned at 11:30 a.m.

Chairperson \_\_\_\_\_

Executive Director \_\_\_\_\_



**TEACHERS' RETIREMENT BOARD MEETING**  
**May 9, 2003**

Chairman Ryan called the meeting to order at 8:35 a.m. in the Teachers' Retirement System Conference room, 1500 E. Sixth Avenue, Helena, Montana. Those present were:

Tim Ryan, Chairman  
Jim Turcotte, Vice Chairman  
Barbara Foster  
Mona Bilden  
Emily Bogut  
Scott Dubbs  
David L. Senn, Executive Director  
Tammy Rau, Assistant Executive Director  
Vivian Hammill, Legal Counsel

Others present were:

Glen Gormelt, Wisetek Providers; Jim Swain, Keith Kohnke, Stevie Schmitz, Tom Christensen, Jo Swain; and Janet Cooper, Karla Scharf, Pam Watson, TRS Staff

Adopt Agenda.

Mr. Ryan called for additions or changes to the Agenda. Hearing none, Mr. Ryan asked for a motion for approval. Mr. Turcotte moved to approve the agenda, Ms. Foster seconded, motion carried.

Approval of Minutes for February 7, 2003

Mr. Ryan asked if there were any additions or corrections to the minutes. Ms. Foster moved to approve the minutes as submitted, Ms. Bogut seconded, motion carried.

Public Comment

Mr. Senn introduced new board member Mona Bilden. Mr. Senn then gave comments on HB 94 stating that it requires that the agenda for a meeting include an item allowing public comment on any public matter that is not on the agenda of the meeting and is within the jurisdiction of the body. However, the Board is prohibited from taking action on any public matter unless it is included on the agenda and public comment has been allowed. If issues are raised that would require Board action, the issue would need to be included on the agenda for a future meeting. "Public Matter" does not include contested case and other adjudicative proceedings.

Mr. Senn summarized the case of Mr. Forseth, a retired TRS member from Billings, who asked that the Board consider future legislation to make an exception to the one-third earnings limit for retirees returning to work in the place of an active TRS member who has been called to active military duty.





## Executive Director's Report

Systems Development Work plan – Mr. Senn introduced David Swenson, IT Manager, who presented an overview of the TRS plan to move forward with our existing Pension Administration System. Mr. Swenson also demonstrated the new Web Retirement Benefit Calculator. Mr. Senn reported that BearingPoint has agreed to go to mediation.

Legislative Update - Mr. Senn reviewed the status of several bills effecting TRS that were introduced to the 2003 legislature

Administrative Rules – Mr. Senn gave an overview on proposed Administrative Rule changes. Mr. Senn commented that the recommended changes to the 10% cap would be the most controversial. Mr. Ryan asked what could be done to more clearly define the issues in this area and Mr. Senn replied that the board needs to redefine "earned compensation". Ms. Bogut asked that events around this issue be considered and reviewed on a case-by-case basis and asked that this item be placed on the next agenda. (Judy, I don't understand what is was that Emily wanted on the next agenda. Can you find this on the tape so we can listen to it again?)

Membership Eligibility – Mr. Senn summarized a letter received from Vern Beffert, Superintendent, Livingston School District No. 4 & 1, regarding a proposal to consolidate administrative positions in the District and Park County Special Education Cooperative and creating a new position of Human Resources Director. The Superintendent asked if the new Human Resources Director position would be required to participate in the TRS. Mr. Senn stated that based on the position description, he did not find that the position would be eligible to participate in TRS. There was discussion and input from the Board concerning the fiscal impact of these types of changes. However, it was the consensus of the Board that the Human Resources Director position would not be eligible to participate in TRS.

Contracted Services Agreements – Mr. Senn summarized the proposed fees for Milliman USA for the next two years, stating that Milliman proposes the fixed fee for consulting services for the next two years increase 17.5 percent for the biennium, plus travel expenses to Helena to present the actuarial valuation or other reports and that anything outside of this fee would be charged on a time and material basis. After discussion from the Board, Mr. Turcotte moved to authorize the Executive Director to negotiate with Milliman on the increase and the additional materials charges. Ms. Bogut seconded. Motion Carried.

Mediation Contract. Mr. Senn advised the Board that TRS legal Counsel, Stu Kellner, and BearingPoint's Counsel, Tim Harris, are working together to find and agree to someone who is qualified to mediate our dispute.

Executive Summary – Mr. Senn summarized the request for information made by Senator Fred Thomas. Senator Thomas requested that the TRS have employers identify administrators and teachers reported to TRS. Mr. Senn stated that this would not be a major change to the TRS reporting system, maybe less than \$5,000, but schools would also have to change their HR systems to include this information on their electronic reports and that since the TRS has no use for this information, the Board would not have any statutory authority to require schools to comply. After discussion and comments from the board Mr. Ryan asked that this discussion be



set-aside until the fall board meeting and recommended that Senator Thomas contract the Office of Public Instruction as they would be the proper entity for collection of this information.

Voluntary Employee Benefit Associations - The Board discussed the Voluntary Employee Benefit Association (VEBA). Attorney Vivian Hammill stated that while there is no IRS ruling on the issues concerning tax free-dollars and termination pay, the TRS should anticipate some problems and confusion in these issues. Mr. Ryan suggested that TRS keep members well informed on issues involving VEBA.

Declining Market Values - Mr. Senn presented the Board with an article printed from the Web site of Gabriel, Roeder, Smith & Company concerning the financial crisis of most retirement plans.

Retention Issues - Mr. Senn opened discussion on Dr. Dori Nielson's report she is preparing for the School Administrators of Montana on how the TRS impacts retention of senior educators and that he feels this work will result in requests for the TRS Actuary to provide costs for plan redesign ideas. Mr. Senn suggested TRS may want to consider surveying our retirees to ask what they did after they retired. Mr. Ryan thinks we need to look at this plan more carefully. Ms. Bogut wants to readdress Dr. Nielson's report and asked if TRS could request reimbursement for costs from parties requesting actuary information.

#### Legal Counsel Report

Case Update – Vivian Hammill gave an update on the Merle Farrier case before the Supreme Court stating that a decision is expected between October and December of 2003. Ms. Hammill summarized the problems TRS has in closing old files and collecting money due TRS from members accounts paid out fraudulently. Ms. Hammill also gave an update on her examination of how other states handle the \$500.00 death benefits and prospective funding sources to cover the \$500.00 death benefits.

#### Other Business

Interest Rate Credited to Member Accounts – Mr. Senn asked the board to consider reducing the interest rate credit to member accounts and charged to purchase service from 4.5 to 4.0 percent. Mr. Dubbs moved to reduce the interest rate from its current 4.5 percent to 4.0 percent. Ms. Bogut seconded. Motion carried.

TRS 2003 Budget – Tammy Rau presented the proposed budget for the fiscal year beginning July 1, 2003 through June 30, 2004. Ms. Rau added that an additional \$3,593 would be added to the budget to cover the cost of office remodels in the TRS building. Mr. Ryan questioned the increase in rent for the TRS building and suggested writing a letter on behalf of the Board requesting an explanation for the increase. After additional discussion and inclusion of:

Out-of-State Travel Request – An out-of state travel request for Board members, Ms. Bogut and Mr. Turcotte and the Executive Director, to attend the NCTR Annual Conference to be held in Orlando, Florida, October 11-16, 2003.

Office Remodel – Move the door into Ms. Rau's office so that you enter from the reception area and install a door into Ms. Watson's office, Ms. Foster moved to accept the budget. Mr. Dubbs seconded. Motion was carried.





Alternative Pay Plan – Mr. Senn gave the Board an overview of The Alternative Pay Plan and the progress of testing the new performance appraisal system. Mr. Senn explained the three-levels of performance. Ms. Janet Cooper commented that this was a learning experience for all and asked for a discussion on how to receive feedback from members on how the staff was doing. Ms. Bogut suggested a card inside the handbook. Ms. Bogut then requested a meeting of the board members prior to the next board meeting to discuss the alternative pay plan and to review the forms being developed for this purpose.

Investments Report – Mr. Ryan reported on recent activities of the Board of Investments. Mr. Ryan felt the TRS's portfolio is solid.

Next Meeting Dates – Mr. Senn asked the Board to review their calendars concerning the next meeting dates scheduled for September 5, 2003 and November 21, 2003.

#### Individual Petitions

Jo Swain – The Board heard Ms. Swain present her case as she was appealing staff's decision to deny her request for an exemption to the 10% cap on earnings. The Board heard testimony in support of Ms. Swain from Ms. Stevie Schmidt and Mr. Tim Christensen. After discussion from the Board Ms. Bogut moved to deny the appeal. Mr. Turcotte seconded, motion carried with 4 members voting aye and 2 members voting nay.

Keith Kohnke – The Board heard Mr. Kohnke's petition for an exemption to the 10% cap. Mr. Kohnke Mr. Kohnke stated that he did not take on additional duties, but accepted, as a natural extension of his normal contract, the additional responsibility of 11 additional schools, over 50% of the district. Mr. Kohnke stated that he was doing his job, not a duty. After discussion from the Board Mr. Turcotte moved to deny the appeal. Ms. Bogut seconded it. Motion carried with 4 members voting aye and 2 members voting nay.

Tom Feeney – The Board heard Mr. Feeney's petition requesting that he be allowed to include in the calculation of his Average Final Compensation (AFC) the salary he earned during a year of private teaching employment or that he receive a refund of the amount he paid to purchase the year of private teaching service. Mr. Senn recommended that the Board approve a refund of \$9,419.01 paid by Mr. Feeney to purchase 1.00 year of private teaching service, plus interest at the rate of 4.5% per year (total \$9,524.96). Mr. Dubbs moved to approve the refund. Mr. Turcotte seconded. Motion carried.

Applications and Retirement Benefits Regular, Survivorship & Adjustments – The Board was presented with a list for their review, of members who have retired recently.

Tax Status of Disability Retirement Benefits – Ms. Rau reported that Tax Counsel advised TRS not to change the status code reported on form 1099R when disability recipients reach age 50.

Disability Applications The Chair directed the meeting closed to review the disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.



The meeting was reopened to the public at 2:45 p.m.

Ms. Foster moved to approve the disability application for Katherine Knudson. Mr. Dubbs seconded. Motion carried.

Ms. Bogut moved to approve the disability application for Kathy Huddleston. Mr. Turcotte seconded. Motion carried.

Mr. Dubbs moved to approve the disability application for Margaret A. Simmons. Ms. Bogut seconded. Motion carried.

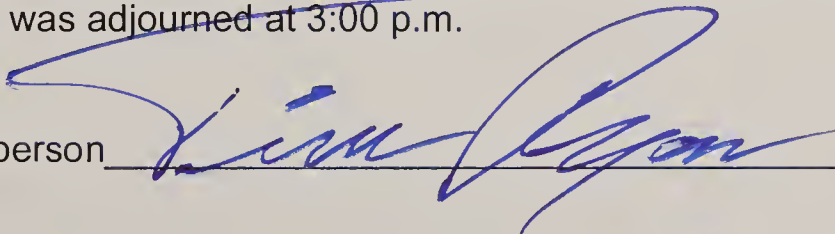
Ms. Rau requested that the board exclude Billie J-----, Herrin and Carla A. Rask from annual medical and earnings reporting requirements. Mr. Dubbs moved to approve. Ms. Foster seconded. Motion carried.

Discussion was heard by the board concerning the possibility of contracting with Dr. Jordan, of Helena, for retention as the TRS contract physician. Mr. Senn was directed to contact Dr. Jordan and will report to the Board at the September meeting on Dr. Jordan's decision.

Mr. Senn discussed the new Employers Manual and thanked Janet Cooper for her work in getting the manual on the TRS website. Ms. Cooper and Ms. Rau offered a brief explanation of the employer's manual.

The Chair asked for a motion to adjourn. Mr. Turcotte moved to adjourn the meeting, Ms. Bogut seconded, motion carried. The meeting was adjourned at 3:00 p.m.

Chairperson

A handwritten signature in blue ink, appearing to read "Kim Ryan", written over a horizontal line.

Executive Director

A handwritten signature in black ink, appearing to read "David L. Senn", written over a horizontal line.





**TEACHERS' RETIREMENT BOARD MEETING**  
**September 5, 2003**

Chairman Ryan called the meeting to order at 8:30 a.m. in the Teachers' Retirement System Conference room, 1500 E. Sixth Avenue, Helena, Montana. Those present were:

Tim Ryan, Chairman  
Barbara Foster  
Mona Bilden  
David L. Senn, Executive Director  
Tammy Rau, Assistant Executive Director  
Vivian Hammill, Legal Counsel

Present via conference phone:

Emily Bogut  
Scott Dubbs

Excused:

James Turcotte

Others present were:

Sara Stanton, Bruce Peterson, Sara Stanton, Dan Bengé, Rob Rust, Burton Pierce, Dave Puyear, Darrell Rud, Kathy Morris, Tom Bilodeau, Jon McElroy, Ann Boston, Kay Winter, Jay Mattfeldt, Greg Pratt, Stu Kellner, and Janet Cooper, Karla Scharf, and TRS Staff.

**Adopt Agenda.**

Mr. Ryan called for additions or changes to the Agenda. Mr. Ryan asked for a motion to postpone the election of officers until the November meeting due to the absence of three members of the board. Ms. Bilden moved. Ms. Foster seconded, motion carried.

**Approval of Minutes for May 9, 2003**

Mr. Ryan asked if there were any additions or corrections to the minutes. Ms. Foster moved to approve the minutes as submitted, Ms. Bilden seconded, motion carried.

**Public Comment**

Mr. Puyear asked if it would be appropriate to comment on the administrative rules at this time or to wait until later when they were scheduled on the agenda. The Chair asked Mr. Puyear if he could wait.

**Individual Petitions**

**Burton E. Pierce** – The Board heard Mr. Pierce present his case requesting that the position of Academic Coordinator with Upward Bound be exempt from Teachers' Retirement System. The Board heard testimony from Mr. Bengé and Mr. Rust suggesting that there were other similar positions within the university system with letters of appointment that did not meet the statutory requirement for TRS membership under §19-20-302, MCA. Mr. Rust specifically referred to his current position as one that was not reportable to TRS, which he did not believe qualified for TRS membership under §19-20-302, MCA. After discussion from the Board, Mr. Senn



suggested that this matter be postponed until the next Board meeting to allow staff to contact the Commissioners Office and MSU-Billing to verify the employment status of the Upward Bound and other similar positions. Ms. Bilden motioned to further study this petition and continue this at the next Board meeting. Ms. Foster, seconded. Motion carried.

Bruce Peterson – The Board heard Mr. Peterson's request for an exemption to the 10% cap. The Board heard testimony in support of Mr. Peterson's petition from Ms. Sara Stanton who stated that had Mr. Peterson taken a job in any other district he would have been exempt but because the position was in his current district, the TRS is calling it a promotion. Mr. Ryan asked for a motion to postpone this issue until the next Board meeting so the full board could discuss this further. Ms. Bilden moved to postpone this until the next Board meeting, Ms. Foster seconded. Motion carried.

Jon McElroy – The Board heard Mr. McElroy's petition for an exemption to the 10% cap in his additional duties as Dean Of Men. After hearing testimony in support of the exemption Mr. Ryan asked if this matter should be tabled until the next Board meeting. The Board agreed that more information be requested. Ms. Bilden moved to table this petition until the November Board meeting. Ms. Foster seconded. Motion carried.

Kathleen Morris – The Board heard Ms. Morris' petition for an exemption to the 10% cap in her additional duties as Butte Teachers' Union Executive Officer. After hearing testimony in support of the exemption, Mr. Ryan asked if this petition should be tabled until the next Board meeting to allow for more discussion. Ms. Bilden motioned to table Ms. Morris petition until the November Board meeting. Ms. Foster seconded. Motion carried.

### Executive Director Report

Administrative Rules – The Board heard Mr. Puyear express concerns over the date of the Administrative Rules Hearing, stating that it was held at the beginning of the school year and that as a result teachers and administrators were unable to attend. Mr. Puyear also expressed concern about there being no mention of a provision to comment on the proposed rules via the internet or email. Mr. Senn ask Mr. Puyear if he could provide more specific comments stating what problems the proposed rules created for administrators and which proposed rule changes or additions were the cause of his concerns. Mr. Senn suggested that the proposed rule notice be withdrawn and that he work with Mr. Puyear to understand his concerns before noticing the rules for public hearing. It was the consensus of the Board to withdraw the current proposal.

BearingPoint Settlement - Legal Counsel, Stu Kellner, reviewed the proposed settlement agreement, which was agreed to in mediation. Mr. Kellner announced that a settlement of 1.5 million dollars had been reached and he is working on a final version of the release. Within 10 days of signing the release a check will be issued. Mr. Kellner suggested that the Board accept this settlement. After some discussion about the confidentiality of this case and concern over disparagement it was suggested by Mr. Kellner that public comments about the settlement consist simply of a statement on the order of "Yes, we had a contract for a project – disputes arose between us before it was completed. We have settled our dispute." Mr. Ryan asked for a motion. Ms. Foster moved to accept the settlement of 1.5 million dollars. Ms. Bilden seconded. Motion was carried unanimously.





## **Legal Counsel Report**

NAPPA Conference Report – Ms. Hammill summarized the National Association of Public Pension Plan Attorneys 2002 legal conference that she attended in June.

Case Update – Ms. Hammill reported on the Merle Farrier case before the Supreme Court, stating that she did not expect a decision until sometime between October and March. Ms. Hammill also reported that Keith Kohnke's contested case will be heard by the end of this year.

Executive Summary – Mr. Senn reported on the number of retirees this past year and stated that we saw fewer members retire this year compared to the past two years. Mr. Senn also reported on House Bill 178 stating that he has not seen reports on retirees being hired under this bill.

Mr. Senn reported that the TRS staff members Janet Cooper, Karla Scharf, and Pam Watson had been selected by the Department of Administration as a team for the Governors Award of Excellence and that the award ceremony was scheduled for late September.

Mr. Senn then presented a summary of his meeting with the budget director bringing up several areas of concern. The Budget Office is asking if TRS can give up any member benefits. After discussion about the possibility of increasing retirement age, eliminating early retirement or other solutions to maintain financial stability, it was agreed that the Board should have a two-day training and budget meeting as soon as possible.

There was discussion and input from the Board on the matter of confidentiality regarding home addresses of Board members. Ms. Hammill commented that anything on file is a matter of public record.

Out of State Travel Requests – Mr. Senn suggested that the Board approve the travel request for David Swenson to attend Cognos Powerhouse training. Ms. Bilden moved to approve the travel. Ms. Foster seconded. Motion unanimously approved.

## **Other Business**

Investments Report – Mr. Ryan reported on recent activities of the Board of Investments. Stating that 50% of the TRS funds are in domestic stock, he feels TRS' portfolio is solid.

Next Meeting Dates – The next meeting dates were scheduled for December 5, 2003 and February 13, 2004. The Board also tentatively scheduled a working session for October 24, 2003 at 8:30 a.m., pending confirmation from the member not present.

Financial Statements, Budget, Delinquent Agency Reports & Travel Reports – Mr. Senn gave a summary of the financial statement and stated that TRS's expenses came in under budget.

Ms. Rau reviewed the delinquent and agency reports. Mr. Senn summarized the travel reports. There were no comments.



Dormant Account Report – Ms. Rau summarized the dormant account report and the report describing the work done to locate lost members with inactive non-vested accounts. Ms. Rau reported that TRS has had great success in finding lost members.

Alternative Pay Plan – Ms. Rau summarized the In-Band Progression Criteria and Training Hierarchy and recommended that the Board further review the certification requirements in level 3. Ms. Bilden moved to table this discussion until the full board was present. Ms. Foster seconded. Motion carried.

### **Applications and Retirement Benefits**

Regular, Survivorship, Adjustments and Corrections – The Board was presented with a list for their review, of members who have recently retired.

Disability Applications - The chair directed the meeting closed at this time because the matters of individual privacy clearly exceed the merits of public disclosure. The meeting was closed to the public at 1:45 p.m.

### **OPEN MEETING**

The meeting was reopened to the public at 2:00 p.m.

Ms. Foster moved to approve the disability application of Sally L. McKiernan. Ms. Bilden seconded. Motion Carried.

Annual Disability Reviews - Ms. Bilden motioned to approve staff's recommendation to remove disability retirees from future annual reviews. Ms. Foster seconded. Motion carried.

The Chair asked for a motion to adjourn. Ms. Foster moved to adjourn the meeting, Ms. Bilden seconded, motion carried. The meeting was adjourned at 2:15 p.m.

Chairperson \_\_\_\_\_

Executive Director \_\_\_\_\_





## TEACHERS' RETIREMENT BOARD MEETING October 24, 2003

Chairman Ryan called the meeting to order at 8:45 a.m. in the Teachers' Retirement System Conference room, 1500 E. Sixth Avenue, Helena, Montana. Those present were:

Tim Ryan, Chairman  
James Turcotte  
Emily Bogut  
Mona Bilden  
Scott Dubbs  
David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Vivian Hammill, Legal Counsel

Excused:  
Barbara Foster

Others present were:

Tom Bilodeau, Jim Kerins, Kristin Jacobson, Janet Cooper, Karla Scharf, and TRS Staff.

### **I. Adopt Agenda.**

Mr. Ryan called for additions or changes to the Agenda. Mr. Senn requested to add an Executive Director Report to the end of the Agenda. Mr. Turcotte moved to adopt the agenda with the addition of an Executive Director's Report. Mrs. Bilden seconded the motion and the motion passed unanimously.

### **Public Comment**

The Chairman called for public comment of board-related items. No public comment was made.

### **II. Board Training Session**

**A. Alternative Pay Plan Progression Criteria/Certification** – Ms Bogut, Mr. Dubbs, Mrs. Cooper and Mrs. Rau summarized the In-Band Progression Criteria and Training requirements for promotion. A copy of the progression criteria developed by the Alternative Pay Plan Committee was provided to board members. A question and answer session took place to ensure complete understanding of the Alternative Pay Plan. Ms. Bogut moved to adopt the In-Band progression criteria; Mr. Dubbs seconded the motion and the motion passed unanimously.

**B. Using the Competency Based Pay Plan and Performance Appraisals** – A copy of the outline that Jim Kerins and Kristin Jacobson of Communication and Management Services (CMS) developed was provided to the Board. This outline was used to explain performance appraisals under the new pay plan and more specifically the Board's responsibility for completing annual performance appraisals for the Executive Director's position. CMS suggested procedures for completing the appraisal and a draft feedback form that the Board may choose to use in the gathering of information. The appraisal form for the Executive Director's position was also reviewed. The Board agreed that appraisals should be accomplished in person and not via teleconference.



C. Fiduciary Responsibility – Vivian Hammill reviewed state and federal laws and policies on fiduciary responsibilities and the personal liability Board members may face as fiduciaries of the Teachers' Retirement System.

**Executive Director Report**

NCTR Conference Report – Mr. Senn summarized the National Council on Teachers' Retirement annual conference that he attended in Florida in September.

1099R Reports – Mr. Senn discussed the teleconference he had with Senator Baucus regarding the 1009R. Mr. Senn emphasized that the TRS does not have this information and that it would be costly to acquire for future use and impossible to gather past information.

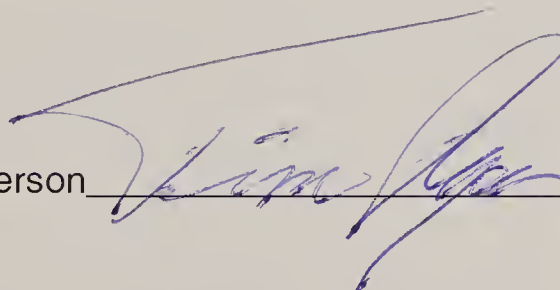
**Other Business**

Next Meeting Dates – Mr. Senn reminded everyone of the next meeting scheduled for the date of December 5, 2003. There were no objections at this time.

**IV. ADJOURNMENT**

The Chair asked for a motion to adjourn. Mr. Turcotte moved to adjourn the meeting, Ms. Bogut seconded. Motion carried. The meeting was adjourned at 12:15 p.m.

Chairperson



Executive Director







**TEACHERS' RETIREMENT BOARD MEETING**  
**December 5, 2003**

Chairman Ryan called the meeting to order at 8:30 a.m. in the Board of Investments Conference room, 2401 Colonial Drive, Helena, Montana. Board member and staff present were:

Tim Ryan, Chairman  
James Turcotte  
Emily Bogut  
Mona Bilden  
Barbara Foster  
David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Vivian Hammill, Legal Counsel  
Janet Cooper, Benefits Officer  
Karla Scharf, Supervisor Retired Payroll Section  
Helena Gonsowski, Benefits Officer  
Dan Gaughan, Accounting/Fiscal Manager  
Dana Lewis, Executive Secretary

Excused:

Scott Dubbs

Others present were:

Jim Penner, Carroll South, Tom Altmaier, Tom Bilodeau, Kay Winter, Kathleen Morris, Jon McElroy, Glen Leavitt, Sara Stanton, Bruce Peterson, Dan Benge, Burton Pierce, Rob Rust, and Dave Puyear.

**Adopt Agenda.**

Mr. Ryan called for additions or changes to the Agenda. Seeing none, Chairman Ryan requested a motion to adopt the Agenda. Ms. Bogut moved to approve the agenda, Ms. Foster seconded, and the agenda was unanimously approved.

Mr. Ryan called to approve the minutes from the September 2003 Board meeting. Mr. Turcotte requested that the September minutes reflect that he was excused from the September meeting. The Chairman requested a motion for this action. Ms. Bogut moved to approve the minutes as noted, Mr. Turcotte seconded, and the minutes were unanimously approved.

Mr. Ryan called to approve the minutes from the October 2003 Board meeting. The Chairman requested a motion for this action. Ms. Bogut moved to approve the minutes, Mr. Turcotte seconded, and the minutes were unanimously approved.

**Public Comment**

Chairman Ryan called for Public Comment of Board-Related Items. No Public comments were made.



## **FY 2002 Investment Report**

Report From the Board Of Investments – Mr. Jim Penner and Mr. Carroll South reviewed the investment performance of the Teachers' Retirement System for fiscal year 2003 and shared their expectations for the future. Mr. Penner and Mr. South handed out materials to the board in regards to cash flow and investment income. Mr. Penner also introduced his back up, Mr. Richard Cooley.

## **Executive Director's Report**

RFP for Actuarial Review Services – Mr. Senn discussed that in times of actuarial losses resulting from lower than assumed investment returns, the Board should look carefully at the actuarial assumptions and calculations and be assured that everything is reasonable. For these reasons, staff recommended that an RFP be issued for a complete review of the valuation and assumptions for the 2004 Actuarial Valuation. Mr. Senn estimated that the cost would be around \$50,000, which would be added to the budget request for FY 2004. Mr. Senn added that there might also be some cost during the current fiscal year, which would result in a request to the Board for a budget amendment. Mr. Senn has also invited the Legislative Auditor and MPERA to join with the TRS on this project. The chairman requested a motion for this action. Mr. Turcotte moved to adopt staff's recommendation to issue an RFP for Actuarial Review/Audit Services, Ms. Bogut seconded the motion, the motion was unanimously approved.

Executive Summary – Mr. Senn reported that the Legislative Auditor's Office had completed their financial audit of the Teachers' Retirement System, and again this year, issued an unqualified opinion with no recommendations.

In October, Mr. Senn reported that Federal legislation H.R. 743 would require state and local government retirement systems to report on a modified Form 1099-R whether a retiree's benefit was based on service not covered by Social Security. Mr. Senn reported that he had received confirmation this provision will be removed from H.R. 743.

Mr. Senn advised the Board that on December 4, 2004, that he participated in a Roundtable discussion at the Montana Taxpayer's Association Annual Meeting. The Roundtable covered diverse topics such as public assistance, prisons, school funding, and retirement. Each participant discussed issues that are likely to be big-ticket items when the Legislature convenes in 2005.

## **Individual Petitions**

Kathleen Morris – Ms. Morris' petition for an exemption from the 10% cap had been tabled by the Board in September pending receipt of additional information. Ms. Morris and Mr. Bilodeau explained to the Board that the earnings from duties as ER& D and business agent fell under the Butte collective bargaining agreement and therefore should be exempt for the 10% cap. The Board discussed this petition with the staff and member. Ms. Morris and Mr. Bilodeau verified that not all of Ms. Morris's earnings had been reported to the TRS for her additional ER&D and business agent's duties under the collective bargaining agreement. Ms. Morris agreed to provide to the TRS copies of her W-2 for the years that the additional earnings had





not been reported. Ms. Bogut moved to approve Ms. Morris' request for an exemption to the 10% cap for earnings that are part of the collective bargaining agreement. Mr. Senn asked if the motion could also include collection of the employee and employer contributions, plus interest, on the additional duties under the collective bargaining agreement that had not been reported to the TRS. Ms. Bogut replied that it was her intent to include in the motion collection of the contributions plus interest. Ms. Bilden seconded the motion. Chairman Ryan asked if there was any further discussion on the motion. Mr. Turcotte stated that he would like to see legislation that would eliminate exemptions to the cap and require the employer to pay the full actuarial cost of including earnings in excess of the 10% cap in the calculation of benefits. The Question was called, motion carried with 4 members voting yea, and one member voting nay.

John McElroy – Mr. McElroy's petition for an exemption from the 10% cap had been tabled by the Board in September pending receipt of additional information. Mr. McElroy and Tom Bilodeau explained to the Board that the additional earnings from duties as Dean of Boys fell completely under the Butte collective bargaining agreement and therefore, should be exempt from the 10% cap. The Board discussed this petition with the staff and the member. Ms. Bogut moved to approve Mr. McElroy's request for an exemption to the 10% cap, Ms. Bilden seconded, motion approved, with 4 members voting yea, one member voting nay.

The meeting adjourned at 12:00 pm for lunch.  
The meeting was reconvened at 1:15 pm.

Burton E. Pierce – Mr. Pierce's petition for a ruling on membership eligibility for the position of Academic Coordinator with the Upward Bound Program had been tabled in September pending receipt of additional information. Mr. Pierce and Mr. Bengé explained to the Board that if the position of Academic Coordinator were not eligible for membership in TRS, Mr. Pierce would be able to work in this position full-time as a retired TRS member and not forfeit monthly retirement benefits. Mr. Pierce also advised the Board that he was currently employed by MSU-Billings in a Counseling Coordinator position with the Upward Bound Program and was also asking the Board to rule on membership eligibility for this, and other similar positions. The Board discussed this petition with the staff and member. Mr. Senn explained that the general rule regarding membership eligibility for professional positions in the University System stated that any position requiring a Board of Regent's Contract would be eligible to participate in the TRS under 19-20-302 MCA. Mr. Senn recommended that the Board rule only on the petition before them regarding membership eligibility for the position of Academic Coordinator, and that the TRS work with Glen Leavitt, Benefits Director, Commissioner's Office of Higher Education, to address both Board of Regent Contracts and Letter of Appointments. Mr. Leavitt suggested that Mr. Senn meet with the Campus Human Resource Officers at their next meeting in January. Mr. Turcotte moved to deny Mr. Pierce's request to find that the position of Academic Coordinator is not eligible for TRS membership, Ms. Foster seconded, motion passed unanimously.

Bruce Peterson – Mr. Peterson's petition for an exemption from the 10% statutory cap was tabled by the Board in September, pending receipt of additional information. Mr. Peterson and his counsel, Sara Stanton, explained why, in accordance with ARM 2.44.518, the 10% cap exemption should be approved for a promotion to a full-time permanent position. Mr. Senn reported that in July 1989 the Board approved an exemption for a promotion to a full-time, permanent, pre-existing position. This exemption was based on the fact that the promotion was to a position that existed prior to the promotion and that it was not a temporary or interim



assessment of additional duties. The Board discussed this petition with the staff and the member. The chairman requested a motion for action. Mr. Turcotte moved that Mr. Peterson be allowed an exemption to the 10% cap for his promotion to a permanent, pre-existing position, Ms. Bilden seconded. The Chair called for further discussion. Mr. Senn asked that the Board clarify what was the intent of the motion regarding permanency and temporary. Mr. Ryan stated that permanent would mean that the individual was promoted to a full-time position and that they cannot return to their previous or a similar position. Ms. Stanton stated that she agreed, and that had Mr. Peterson only held the Superintendent's position for one year that they would not be before the Board today. The Question was called; motion approved unanimously.

Dr. Ruey-Lin Lin – Dr. Lin requested the Board grant his petition for an exemption from the 10% statutory cap, which resulted from additional compensation received for additional duties associated with teaching online courses. Dr. Lin's explained why he felt the Board should waive the cap. The Board discussed this petition with the staff and the member. Mr. Turcotte moved to deny Mr. Lin's request for an exemption to the 10% cap, which resulted from receiving additional compensation for the additional duties, Ms. Bogut seconded, motion carried unanimously.

#### **Legal Counsel Report – Vivian Hammill**

Case Updates – Ms. Hammill reported that we have two cases pending. Keith Kohnke, an administrator from Billings who was denied an exemption to the 10% cap. The second is the Merle Farrier case, in which the Supreme Court ruled that Mr. Farrier could not receive TRS retirement benefits and work full-time at the University of Montana and participate in the ORP. However the Supreme Court remanded to the District Court the Constitutional questions raised by Farrier.

#### **Other Business**

2004 Meeting Dates - February 13, May 14, September 10, and November 19 - To avoid conflicts with school calendars, there has been some discussion of moving the September meeting to late August or later in September, and the November meetings to the first Friday in December. Dates were discussed. Ms. Foster moved to approve the dates with willingness to be flexible and possibly reschedule certain dates in the future, Ms. Bilden seconded. Dates approved.

Out of State Travel - David Senn – NCTR Legislative Committee February 2004 – Washington, DC Ms Bogut moved to approve the request, Ms. Bilden seconded. Travel request unanimously approved.

NCTR Annual Conference Report –Mr. Senn and Ms. Bogut reported on general sessions and workshops they attended during the 2003 NCTR Annual Conference in Orlando, Florida.

Financial Statements, Delinquent Agency, Inactive Dormant Accounts, Travel, and Budget Reports – Mr. Gaughan provided financial statements and other informational reports for the Board's review.





Dormant Accounts – Ms. Rau reported that during the past quarter we have written off, transferred to PERS or refunded a total of 144 dormant accounts, for a total of \$668,784.37.

Written Off Since September 2003	43	\$244,658.05
Transferred Since September 2003	13	\$ 34,440.51
Refunded Since September 2003	88	\$389,685.81

Annual Per Diem Reports – Each year members of the TRS Board who are also public employees (teachers and administrators) who receive both the \$50 per diem while serving as a board member and their regular salary for overlapping periods must file a Multiple Public Employment Disclosure Form by December 15. To the best of staff's knowledge, there were no Board member's required to file this form for calendar year 2003.

Alternative Pay Plan – Verbal report was given by Mr. Senn on the performance appraisal process, and that the committee was drafting a policy to award time off for performance that exceeds expectations. The committee will continue to work on a compensation award policy as well.

### **Retirement Report**

Service Retirements and Survivor Benefits – Ms. Scharf provided a list of members who had retired recently to the Board.

Executive Session to Discuss Disability Applications – The Chair directed the meeting closed to review the disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 10:45 am.

Ms. Bilden moved to approve the disability application of Kathleen Collins, Ms. Bogut seconded. Motion approved. Without objection, Mr. Turcotte abstained from voting.

Ms. Foster moved to approve the disability application of Elizabeth Nelson, Ms. Bogut seconded. Motion approved.

Ms. Bilden moved to approve the disability application of Marcia L. Duffner, Mr. Turcotte seconded. Motion approved.

PRA Correction - Recently the TRS discovered that an error had been made in payment of the 1994 Post Retirement Adjustment (PRA) when the Pension + system incorrectly calculated birth dates for 32 retirees eligible to receive the PRA. These retirees have been overpaid through December 2003 a total of \$20,725.11, for an average of \$647.66. The overpayments range from a minimum of \$222.72 to a maximum of \$1,423.20. Under §19-20-705 MCA, upon discovery of an error, the Retirement Board is required to correct the error and, as far as practicable, adjust the payments so that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled will be paid.



Staff recommended that current monthly benefits be corrected effective January 1, 2004, that each affected retiree be notified of the error and the amount overpaid, and given the option to return the full amount or to have their benefits reduced over the next 12 months to recover the overpayment. We also recommend that any interest that the board could charge on the overpayment be waived in compliance with administrative rule, 2.44.515, Correction of Errors on Contributions and Overpayments. Mr. Turcotte moved to adopt staff's recommendation, Ms. Foster seconded, motion approved unanimously.

Change of Benefit Option – James E. Dow – Mr. Dow retired under a disability retirement effective January 1, 2002. At the time of his retirement, Mr. Dow had elected option Normal Form on his Application for Retirement Allowance, which required the signature of his wife. Mr. and Mrs. Dow, represented by legal counsel Mr. Michael W. Tolstedt, recently advised the TRS that Mr. Dow forged his wife's signature on the application. Mr. Dow is requesting that the forgery be corrected as provided under §19-20-705(3), MCA.

Mr. Senn advised the Board that if Mr. Dow's request is approved, his monthly retirement benefit under Option A, joint and full to the beneficiary, would be less than the Normal Form amount he has been receiving since January 1, 2002. This would result in Mr. Dow having been overpaid through November 2003, \$3,809.72 plus interest of \$292.86, for a total of \$4,102.58.

Staff recommended that Mr. Dow's benefit be recalculated retroactive to the retirement effective date under Option A, and that the amount that has been overpaid, plus interest, be returned to the TRS within 15 days of the Board Decision.

Ms. Bogut moved to adopt staff's recommendation to change the benefit option to Option A, and that the benefits overpaid, plus interest be returned to the TRS, Mr. Turcotte seconded, motion approved unanimously.





### **Election of Officers**

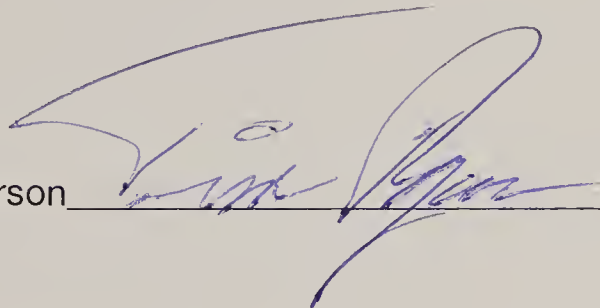
Chair - The current chair is Tim Ryan. Ms. Bogut nominated Mr. Ryan. Mr. Turcotte nominated Mr. Dubbs. Mr. Ryan was reelected as chair by the board members.

Vice Chair – The current vice chair is Jim Turcotte. Mr. Turcotte nominated Mr. Dubbs. Ms. Foster nominated Ms. Bogut. Ms. Bogut was elected as vice chair by the board members.

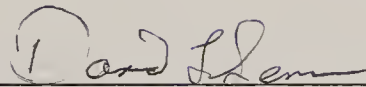
### **ADJOURNMENT**

The Chair asked for a motion to adjourn. Mr. Turcotte moved to adjourn the meeting, Ms. Bogut seconded. Motion carried. The meeting was adjourned at 2:45 p.m.

Chairperson

A handwritten signature in blue ink, appearing to read "Tim Ryan", written over a horizontal line.

Executive Director

A handwritten signature in blue ink, appearing to read "David L. Leman", written over a horizontal line.



**TEACHERS' RETIREMENT BOARD MEETING  
FEBRUARY 13, 2004**

Chairman Ryan called the meeting to order at 9:00 a.m. in the Teachers' Retirement System conference room, 1500 East 6<sup>th</sup> Avenue, Helena, Montana. Board members and staff present were:

Tim Ryan, Chairman  
Emily Bogut, Vice Chairman  
Jim Turcotte  
Mona Bilden  
Scott Dubbs  
Barbara Foster  
David Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Vivian Hammill, Legal Counsel  
Dana Lewis, Executive Secretary

Others present were:

Charles Nemec, Legislative Auditor's Office; Jo Swain; Bonnie Schuster; Keith E. Cooksey; Janet Cooper, Benefits Officer; Helen Gonsowski, Benefits Officer; Karla Scharf, Supervisor Retired Payroll Section; and Dan Gaughan, Accounting/Fiscal Manager.

**Adopt Agenda**

Mr. Ryan called for additions or changes to the Agenda. Seeing none, Chairman Ryan requested a motion to adopt the Agenda. Ms. Bogut moved to approve the agenda, Ms. Foster seconded, and the agenda was unanimously approved.

**Adopt December 2003 Minutes**

Mr. Ryan called to approve the minutes from the December 5, 2003 Board meeting. The Chairman requested a motion for this action. Mr. Turcotte moved to approve the minutes, Ms. Bogut seconded, and the minutes were unanimously approved.

**Public Comment**

Chairman Ryan called for public comment of Board-related Items. No public comments were made.

**Administrative Issues**

Out-of-State Travel Requests – Mr. Turcotte moved to approve the out of state travel requests for Vivian Hammill: National Association of Public Pension Plan Attorneys (NAPPA) annual conference June 26 - 30, 2004, in St. Louis, Missouri; David Swenson: Public Retirement Information Systems Management (PRISM) annual conference May 2 - 5, 2004, in Memphis, Tennessee; and Tammy Rau: NCTR Deputy Directors Workshop, May 13 - 15, 2004, in San Francisco, California. Mr. Dubbs seconded. Travel requests were unanimously approved.





IT Projects, Goals, and Accomplishments - Mr. Senn gave a brief PowerPoint presentation created by David Swenson that included information about the website estimate of benefits calculator, employer reporting beta testing, and advised the Board that staff was working on our IT strategic plan which would include upgrades to the Pension + Pension Administration System.

Report on Investments – Mr. Ryan reported on the recent activities of the Board of Investments. He also stated that mortgage rates were still low, below six percent, but that the market as a whole was looking progressively better.

Financial Statements, Delinquent Agency, and Budget Reports – The Board reviewed the reports provided by Mr. Gaughan. Mr. Gaughan further reported that all employers except for Camas Prairie Elementary were now up to date. The Chairman also charged the staff with examining the rent and maintenance on the TRS building, which is owned by the TRS. Mr. Ryan explained that the staff should explore recording the building as an investment.

Next Meeting Dates – The meeting dates were reviewed. Mr. Senn explained the importance of the November 12, 2004 meeting for presentation of the Actuarial Audit findings and the inability to change the date. The Board members requested to have the September Board meeting in Great Falls starting on Thursday evening, September 9th and continue Friday morning, September 10<sup>th</sup>, if necessary.

### **Legal Counsel Report**

Ms. Hammill gave a brief update on the Kohnke vs TRS case, and that cross motions for summary judgment on the Farrier vs TRS case will be heard February 18, 2004. In addition, Dr. Lin has requested a contested case hearing in regard to his petition for exemption from the 10% statutory cap, which had been denied at the December 5, 2003 Board meeting.

### **Executive Directors Report**

Executive Planning Process – Mr. Senn explained that the Executive Planning Process (EPP) requires state agencies to submit their conceptual legislative proposals to the Governor's Budget Office by April 16, 2004. The Board discussed each of the following proposals in detail.

TRS Housekeeping Proposal – Each legislative session, the Board submits a general housekeeping proposal revising the provisions of the Teachers' Retirement Act to clarify statutes, and comply with federal law changes and/or court decisions.

Professional Retirement Option - In the 2003 Session, the Board proposed legislation that would have increased the benefit multiplier from 1.66667% per year to 2.0% per year. It was the consensus of the Board to pursue this legislation again in 2005.

Funding Enhancements – Mr. Senn reported that public employee retirement systems are required by the Montana Constitution to be actuarially funded. However, following the significant market decline since 2001, the TRS Actuary has warned that it is possible, as of July 1, 2004, the TRS amortization period may exceed 30 years. Possible options suggested for reducing liabilities and/or increasing assets were:



- Increase Employer Contributions
- Reduce Benefits for New Hires
  - 30 years for full benefits and age 55
  - Early retirement with 5 years and at least age 55
  - Use a career average salary to calculate benefits
- Repeal all exceptions to the 10% cap and require the employer to pay the full actuarial cost of any resulting benefit increases.
- Simplify definition of "Earned Compensation" and remove any opportunities to inflate compensation in the final years preceding retirement, and ensure that all reportable compensation is reported in the early years before retirement.
- Require all employers to contribute the normal employer contribution rate of 7.47% on the total wages paid to working retirees
- Actuarial Audit to confirm current funded status

Executive Summary – Mr. Senn reported that an RFP for an actuarial audit would be issued on March 1, 2004. The PERS Board and the Legislative Audit Division have agreed to participate with the TRS on this project.

Mr. Senn reported that he met with the University Human Resource Directors on January 8, 2004 and reviewed the current requirements for TRS membership for individuals employed by the university system. The Human Resource Directors concurred that the current policy giving the option to participate in the TRS to all professional level employees granted a "Board of Regents Contract" or "Letter of Appointment" should not be changed. Positions that did not appear to fit the policy would be reviewed as necessary.

Public Pension Coordinating Council's Public Pension Standards 2003 Award - Mr. Senn advised the Board that the TRS has received the Public Pension Coordinating Council's Public Pension Standards 2003 Award. The Public Pension Standards are intended to reflect minimum expectations for public retirement system management and administration, and serve as a benchmark by which all defined benefit public plans should be measured.

Post-Retirement Adjustment Corrections – In December 2003, staff reported that 32 benefit recipients had incorrectly received a Post Retirement Adjustment (PRA) in 1994. Mr. Senn reported that TRS had received 20 replies to the initial letter advising each recipient of the error and amount overpaid and if they had not replied, they were advised that their benefit was being adjusted to recover the overpayment by December 2004. A second follow-up letter was sent explaining each adjustment in more detail and advising that their 2004 1099-R would be reduced by the amount repaid.

Return to Work Legislation – House Bill 178 passed by the 2003 legislature allows districts to hire TRS retirees who have been retired for at least 12 months, full-time without any earning limitations. Mr. Senn reported that three retirees applied to work under the provisions of HB 178; however, only **two** retired teachers returned to work under this legislation.

James Dow – In December 2003, pursuant to 19-20-705, MCA, the Board agreed to change Mr. Dow's retirement option from Normal Form to Option A, provided the resulting overpayment of





\$1,429.93 was returned to the TRS. Mr. Senn distributed a letter from Mrs. Dow with her repayment thanking the Board for their consideration.

### **Retirement Report**

Service Retirements and Survivor Benefits – The Board was presented with a list of members who have recently retired for their review.

Executive Session to Discuss Disability Applications – The Chair directed the meeting closed at 11:40 a.m. to review the disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 11:45 am.

Ms. Bogut moved to table the disability application of Rodger E. McConnell until further documentation could be obtained and reviewed, Ms. Bilden seconded. The motion was unanimously approved.

### **Personnel Committee Report**

Alternative Pay Plan Committee Report - The Alternative Pay Plan Committee worked on the Time-Off Performance Award Policy. Communication Management Services (CMS) is still in the process of drafting the policy and progression criteria.

Executive Director Performance Appraisal - Mr. Dubbs spoke in regard to the favorable comments Mr. Senn received during his performance appraisal. Mr. Dubbs added that he felt the whole process of implementing the new pay plan and learning to use the system was still a work in progress. The Committee reported that they were working with Jim Kerins, CMS, to draft Mr. Senn's performance appraisal for the next appraisal period.

### **Individual Petitions**

Jo E. Swain – During the December 5, 2003 board meeting, the Board directed that Ms. Swain's petition for an exemption to the 10% cap be put on the February 2004 agenda for reconsideration. Ms. Swain received a stipend of \$20,000.00 for the additional duties as Acting Superintendent for the 2000 school year, resulting in an increase in compensation in excess of 10%. Following the temporary assignment, Ms. Swain was promoted to the position of Superintendent without recourse to return to her previous position. Mr. Dubbs moved to apply the 10% cap to the one-time \$20,000.00 stipend, but not to the salaries earned after Ms. Swain was promoted to the Superintendent's position. Mr. Turcotte seconded, and the motion was unanimously approved.

Frank L. Matule - Following an internal reorganization and merger of three departments, Mr. Matule was promoted from Director of Administration/New Student Services to Director of Enrollment Services. Ms. Rita Garland, Benefits Services, verified that the new position resulted in an "enormous increase in his permanent responsibilities and duties, along with commensurate compensation, as approved by the Board of Regents in November 2001." Mr. Matule requested the increase in compensation reported to the TRS in excess of the 10% cap



be exempt and provided rationale for an exemption based on his promotion resulting from the reorganization of enrollment services.

The draft rules proposed by the Board would exempt increases that result from a permanent advancement or promotion to a pre-existing position with the same employer, which would not include reorganization; therefore, staff denied Mr. Matule's request for an exemption. After a review and discussion of the information provided, Ms. Bogut moved to deny Mr. Matule's request for an exemption to the 10% cap due to promotion based on reorganization, Ms. Foster seconded, and the motion was unanimously passed.

Bonnie H. Schuster - Ms. Schuster requested that the Board grant her full-time service credit for each of the seven years she was employed on a twelve-month contract at .75 FTE with the University of Montana. Mr. Turcotte moved to deny the petition to credit Ms. Schuster with full-time service credit. Mr. Dubbs seconded, and the motion was unanimously passed.

Keith E. Cooksey - Mr. Cooksey requested the Board grant him full-time service for each year where less than full-time salaries had been reported to the TRS, but for which he maintained he worked full-time. Mr. Cooksey explained to the Board that, as a Professor and department head that recruits his own funding from federal grants, he must pay himself, his staff, and all the maintenance required for his laboratory out of a single budget. He argued he is like a subcontractor of the university system, but must be covered by Workman's Compensation Insurance. Mr. Senn advised the Board that the TRS had not received copies of all Mr. Cooksey's contracts from the Human Resource office. Therefore, it was not possible to completely determine what percentage of each full-time contract had been reported to TRS nor the correct service that should be credited to his account. Mr. Turcotte moved to table the petition until the May 2004 Board meeting and until all required documentation had been received by the TRS. Ms. Bogut seconded, and the motion passed.

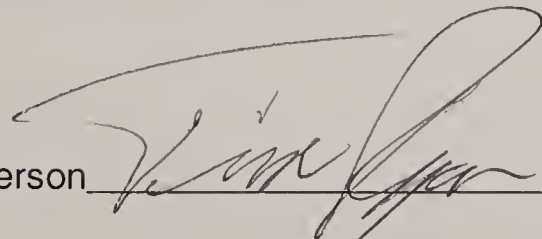
### Instructions to Staff

Mr. Senn asked that the Board verify that the legislative concepts to be submitted to the Governor's office on April 16, 2004, are complete. The Board concurred with the recommended Housekeeping proposal, and that a broad, open-ended funding proposal will be necessary to address the anticipated funded status of the TRS. The Board also directed that the Professional Retirement Option be resubmitted for the 2005 Session.

### Adjournment

Ms. Foster moved to adjourn the meeting, and Ms. Bilden seconded the motion. The meeting was adjourned at 3:15 p.m.

Chairperson



Executive Director







## TEACHERS' RETIREMENT BOARD MEETING MAY 14, 2004

### CALL TO ORDER:

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Board of Investments conference room, 2401 Colonial Drive, Helena, Montana.

### BOARD MEMBERS PRESENT:

Tim Ryan, Chairman  
Emily Bogut, Vice Chairman  
James Turcotte  
Barbara Foster  
Scott Dubbs

### STAFF PRESENT:

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Vivian Hammill, Legal Counsel  
Linda Schofield, Executive Secretary

Dan Gaughan, Account Fiscal Manager  
Rex Merrick, Network Systems Analyst  
Helen Gonsowski, Benefits Officer  
David Swenson, Information Technology Manager

### EXCUSED:

Mona Bilden, Board Member

### OTHERS PRESENT:

Mark C. Olleman, Actuary, F.S.A., M.A.A.A., Milliman USA  
Steve Henry, Field Consultant, MEA-MFT  
Steve Bender, Acting Director, Montana Department of Administration  
Kristi Rosseland, Senior Budget Analyst, Office of Budget & Program Planning  
Charlotte Thomas, Legislative Chair, Montana Retired Educators' Association (MREA)  
Darrell Rud, Executive Director, School Administrators of Montana (SAM)  
Dawn Watkins, Assistant Director, Personnel & Payroll, Montana State University- Bozeman (MSU-B)  
Kenneth Hapner, TRS Member  
Rodger McConnell, TRS Member  
Sheila Kemmer, TRS Member

May 14, 2004 minutes formalized by Tari L. Elam; approved by David L. Senn, Executive Director.



### **ADOPT AGENDA:**

Chairman Tim Ryan called for additions or changes to the Agenda. Seeing none, Chairman Ryan requested a motion to adopt the Agenda. Ms. Emily Bogut moved that the agenda be approved. Seconded by Mr. James Turcotte, the motion carried unanimously.

### **ADOPT FEBRUARY 2004 MINUTES:**

Chairman Ryan called to approve the minutes from the February 7, 2004 Board meeting. Ms. Barbara Foster moved that the February 7, 2004 minutes be adopted. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

### **PUBLIC COMMENT:**

Chairman Ryan called for public comment on Board related items. There being none, the Chairman moved to the next item on the agenda.

### **ECONOMIC EXPERIENCE STUDY**

Mark Olleman, Actuary, Milliman USA, provided a PowerPoint presentation concerning the Economic Assumptions Study for the period July 1, 1997 – July 1, 2003. He explained that the TRS has had an investment return assumption of 8%, which is a long-term assumption. He stated the 1990's were profitable with booming markets, however, this was a short period of time when benefits need to be planned and financed 20, 30, 40 and 60 years into the future. Mr. Olleman also indicated that while 2003 was a good year, it followed three calendar years of poor market performance. In 2004, markets have thus far been positive, but we cannot predict the overall outcome for the year. He explained that investment return is the single most important and volatile assumption; a one percent (1%) variation in the investment earnings over a system's lifetime can make a difference of 15% to 20% in the level of benefits provided by the system for a given employee and employer contribution rate.

Chairman Ryan asked Mr. Olleman whether there would be an increase in the numbers of future teachers? And, will that impact the actuarial funding at all?

Mr. Olleman replied the number of teachers in Montana is expected to remain constant and that a decline in the number of teachers would weaken the System's funded status.

Chairman Ryan offered his concerns regarding what might amount to an unfunded mandate from the legislature if the TRS adopts a 3.0% Guaranteed Annual Benefit Adjustment (GABA). If, ultimately, there are fewer teachers paying into the system and the Board increases GABA, the system will not have sufficient members in the future to help pay for the cost.

Mr. Turcotte asked how the plan could provide for a 3% cost of living increase? Is there a way through actuarial assumptions to help build a reserve?

Mr. Olleman replied that it would be hard to find a source to put into a GABA funding reserve; it is a good idea, but it would be hard to achieve.

Mr. Turcotte said it is the obligation of the Board to do something positive for members of the System.

Chairman Ryan said the Board needs to move to a conservative way of funding GABA; perhaps by increasing contributions.





Mr. Dubbs said the Board has very little control over the rate of return and benefits. He thinks the Board should step forward and say the plan cannot fund GABA and will need to have legislation. He would like two costs to be provided by the actuaries for the September meeting: the contribution rate increase required for the system to remain actuarially sound, and the cost to increase GABA to 3.0%.

Mr. Olleman replied estimates for the September meeting could be based on the 2002 valuation.

Chairman Ryan said he would like Mr. Olleman to also provide numbers for phasing-in GABA (spread over a number of years), and all at once. He also requested that a schedule of increases in the contribution rates necessary to actuarially fund the system be provided.

David Senn, Executive Director, TRS, asked Mr. Olleman to confirm that reducing the interest rate assumption would also increase both the actuarial cost to purchase service, and employer and employee contributions due under termination pay Option 1. The lower interest rate assumption would also require the Board change the joint and survivor factors, resulting in reduced benefits.

Mr. Olleman confirmed that the Board would need to adjust these rates and that recommendations would be presented in November.

**MOTION/VOTE:** Mr. Turcotte moved that the 7.75% assumption (rather than 8%) be adopted; the motion was seconded by Ms. Bogut.

**Discussion:**

Mr. Dubbs asked Mr. Senn to comment on the positive and negative impacts of the proposed change.

Mr. Senn identified the negative impacts as: extending the amortization period 7 years; increased contributions rates required to fund benefit enhancements would be larger than previously estimated in order for the TRS to remain actuarially sound which may make it more difficult to convince the legislature to pass benefit enhancements; the actuarial cost to purchase service and contributions due on termination pay will increase; and, the joint and survivor benefit factors will be reduced. On the positive side, a small change now could avoid a more costly change in the future, and a reduction in the assumed rate is more in-line with returns of the past few years.

Chairman Ryan said the longer we have an unfunded liability out there, coupled with fewer active contributing members, the harder the burden will be on those remaining educators. He believes the Board should move quickly so the system will be fundamentally sound sooner.

Mr. Olleman confirmed the sooner any change is made, the smaller the change would have to be.

Chairman Ryan said our fiduciary responsibility is to move quickly and do what we think is best for the long-term stability of the System.

Mr. Dubbs does not believe the Board should make proposals to increase benefits while, at the same time, talking about contribution rate increases and becoming more conservative in assumptions because the Board simply cannot do everything.

**Motion to adopt the 7.75% assumption** carried 4-1, with Foster, Bogut, Turcotte, and Ryan voting AYE, and Dubbs voting NAY. Ms. Foster thanked Mr. Olleman for his presentation to the Board and the clarity of his explanations.



## **2005 LEGISLATIVE SESSION**

### Discussion:

Housekeeping – Amend § 19-20-804, Allowance for Service Retirement. This section includes both the formula for determining the TRS service retirement allowance, and also the limitations that apply to retired members returning to TRS eligible employment. The return to work provisions will be made a separate part of the act. Mr. Senn explained that this is a general housekeeping proposal intended to clarify statutes, making necessary administrative and process modifications. This proposal may also include amendments necessary to comply with proposed federal law and rule changes.

Funding Legislation - The Montana Constitution, Article VIII, Section 15, requires that the legislature fund all public retirement systems at an actuarially sound level. The TRS' Actuary has estimated that, unless we see a very strong rebound in the market, the TRS will need to find additional funding and/or reduce liabilities to remain actuarially sound. The Board agreed to further consider legislation including the following alternatives for maintaining the actuarial funding of the TRS. These proposals will continue to be discussed in September, with the final proposal to be adopted in November.

### **Proposed changes/reductions for members employed after July 1, 2005:**

- Reduce the benefit multiplier by 10%, from 1.6667% to 1.5% per year of service.
- Pay full benefits only after 30 years of service and age 55, instead of 25 years of service at any age.
- Include the member's career average salary in the calculation of average final compensation rather than the 3 highest consecutive years of earnings.

Chairman Ryan and Ms. Bogut asked about using a 10-year a career average salary; suggesting this might eliminate the problem of tinkering. The Board asked Mr. Olleman about creating tiers.

Mr. Olleman explained that tiers would have to be applied to future hires only, because you generally cannot force current retirees to take a reduction. He also indicated that some systems use a 5-year average.

### **Changes affecting current as well as future members:**

- Elimination of all exemptions to the 10% cap and require employers to pay the actuarial cost to fully fund all resulting benefit increases.

Mr. Senn advised the Board that over the past three years almost \$2.4 million in excess earnings have qualified for one or more of the current exemptions. If all earnings had been subject to the cap over this period, the TRS would have collected additional contributions of \$2.95 million.

Additional discussion occurred regarding other career changes and events which will be impacted by the elimination of all exemptions, including: changes of employer, sabbatical leaves, changes from part-time to full-time employment, working for more than one employer, promotions, Collective Bargaining Agreements (CBAs), and summer employment.

It was the consensus of the Board not to propose changes to the current law regarding the 10% cap.





- Require all employers to contribute the normal employer contribution rate of 7.47% on the total wages paid to working retirees.
- Increase the current State and/or employer contribution rates. A 1.0% increase in the employer contribution rate would generate an additional \$5.5 million each year for the TRS.

Mr. Senn said phasing-in any rate increase might be a necessary part of any proposal to the Governor and Legislature.

- Amend §19-20-501(2), MCA; changing the statutorily set rate of interest credited to member accounts from not less than 4.0% to a prudent standard set each year by the Board.
- Address the adequacy of the University System's supplemental contribution rate.

The current rate is 4.04%. Based on returns through June 30, 2003, the Actuary estimated that, in compliance with §19-20-622, MCA, this rate would have to increase to 5.66% (7.97% if you include GABA) to ensure amortization of the university system's past service liability by July 1, 2033.

#### Professional Retirement Option

Mr. Senn explained this proposal is designed to retain experienced teachers and administrators in the public school system by offering enhanced retirement benefits to eligible members of the TRS who postpone termination and retirement until they are at least age 55, with 30 or more years of creditable service. For example: a member with 30 years of creditable service would receive a retirement benefit equal to 60% of their average final compensation, as opposed to 50% under current law. This proposal was introduced in 2003 by Representative Larry Jent as House Bill 133; and, per the Legislative Fiscal Note, had an estimated cost of between \$11 and \$12 million.

Mr. Senn asked Steve Henry, Field Consultant, MEA-MFT, about the organization's position on the Professional Retirement Option?

Mr. Henry replied MEA-MFT would support this proposal to retain experienced teachers, because it keeps people in the system longer.

Mr. Turcotte inquired whether there would be any opposition by MEA-MFT?

Mr. Henry replied opposition might arise because it is a huge retention issue especially in rural school districts due to low teacher salaries.

#### Proposals From Other Interested Persons & Public Comment:

Mr. Senn indicated it is his understanding that retired teachers in Great Falls are interested in increasing GABA from 1.5% to 3.0%.

Charlotte Thomas, MREA, stated that she is meeting with the Great Falls retirees on Monday, May 17th concerning their intentions to seek legislation to increase GABA. She will find out more information at that time.

Chairman Ryan commented that the Legislature put the 3% out there, but did not provide funding, which is not right because it raises expectations and creates disappointment.



Mr. Senn commented that legislation might be proposed by the University of Montana to allow retired TRS members to work full-time, draw benefits, and participate in TIAA-CREF. A similar proposal, which would have allowed all members after 25 years to draw full benefits and return to work, was reviewed a few years ago and at that time would have cost more than \$15 million per year.

Mr. Henry submitted the following written comments to the Board on behalf of MEA-MFT:

“Respecting current member benefit proposals, MEA-MFT would:

- Oppose any legislative (or rule change) which would eliminate the long-standing explicit and legislatively intended exemption of CBA wages from application of the 10% excess earnings cap. Our position on this issue remains consistent with our position first stated and argued in the late 1980s and consistently through the 1990s and when processing last year's BTU FAC cases. MEA-MFT's position is not affected by the TRS board's consideration of full excess earnings termination pay contributions for employers alone.
- Support full 7.47% employer contributions on all working retirees.
- If needed, support a 1% increase in employer TRS contributions – predicted on nothing less than maintenance of benefits for all current and future members.
- Support adjustment created interest to member accounts.
- If needed, support necessary increases to the university system's "supplemental contribution rate" – but only on condition that the university system's contribution go directly to members! TIAA-CREF account be increased by a commensurate % increase, plus an additional 1%.
- Support PRO (30 years/2% formula) as an important component of short-term and long-term teacher retention and member retirement income policy goals.”

## **EXECUTIVE DIRECTOR'S REPORT**

Member Communications - Mr. Senn reported that he had contacted Steve Juetten, a Communications Consultant with Milliman USA, concerning communication services Milliman might be able to provide the TRS to develop additional avenues for outreach and information sharing. To help achieve this goal, Mr. Juetten recommended the following services:

- Draft a Communication Plan - estimated cost \$4,500-\$6,500.
- Plan Ahead On-Line Retirement Estimator - estimated cost \$4,500-\$6,500.
- General Newsletter – estimated cost \$4,500-\$6,500.
- Revised Retirement Statement – estimated cost \$4,500-\$6,500.
- On-Line Survey – estimated cost \$4,500-\$6,500.

Chairman Ryan asked if we know how many members have computers and would access on-line services?

Mr. Senn responded that Milliman estimated only about a third of the membership would use each of the tools available.





Mr. Olleman suggested sending postcards to pre-5 year retirees.

Ms. Thomas said retirees also like postcard notification. It seems to be very effective, and reasonable in cost.

Mr. Senn also provided the Board with an example of a Government Finance Officers' Association (GFOA) Retirement Planning Workbook which staff is reviewing for possible inclusion into our current workshops.

Chairman Ryan suggested staff move forward with drafting a Communication Plan.

**MOTION/VOTE:** Mr. Turcotte motioned that Mr. Senn be authorized to contract with Milliman for a \$4,500-\$6,500 Communication Plan. Seconded by Mr. Dubbs, the motion carried unanimously.

Executive Summary - Mr. Senn reported the Actuarial Review/Audit Committee completed the evaluation of the six proposals for Actuarial Review/Audit services and accepted the offer from Mellon Human Resources. Mellon's fixed fee for the actuarial review service is \$65,000, which is split between MPERA - \$37,000 and TRS - \$28,000. In addition to the fee for actuarial review services, we anticipate that we will incur additional charges of \$10,000 from our consulting actuary, Milliman USA, for work related to the audit.

Mr. Senn reported that proposed administrative rule changes have been informally distributed to groups and individuals on our interested persons list and posted to the TRS Web site. The few comments we have received will be incorporated into a formal notice for public hearing. Following the hearing, the next step will be to publish a notice to adopt the rules as is or, depending on comments received, to adopt with amendments.

Mr. Henry submitted the following written comments/questions to the Board on behalf of MEA-MFT:

- "2.44.308(3): Does the Department of Labor really issue contractor certifications to any instructional nature job holder?"
- Mr. Senn replied that the DLI issues certifications for independent contractors.
- Mr. Henry inquired whether there are any instructional nature job holders who the DLI issues certificates to?
- Mr. Senn replied, for example, certificates would be issued to school psychologists.
- "2.44.401(1)(a): Discussion rule change appears to clarify current TRS practice. Many paras and some Title 1 staff, however, will be hired/begin work in September rather than (sic) the beginning of the school year. To assure that these employees retain full TRS credit, sub(a) should be amended to read as: 180 days or 1260 hours of employment during the fiscal year shall equal 1.0 year service credit."
- Mr. Senn replied he would review the rule and relevant statute to see if any change could be made.
- "2.44.413. Question: Does this proposal change current practice forcing newly employed members to wait (indefinitely?) until they are employed full-time for an entire school year before they could begin purchase of creditable service? If so, the discussion rule imposes a significant and unnecessary "wait period" on a very small and selective number of members and would be expected to have a negligible impact on TRS funding on liability levels."
- Mr. Senn replied that the laws governing purchases of service all specifically state when a member will be eligible to purchase service. Changes to statute could not be proposed through Administrative Rules.



- "2.44.513(1) Additional language suggested: A benefit recipient who belongs to an employer sponsored local or state group insurance..."
- "2.44.518. MEA-MFT will oppose any elimination or limitation placed on the longstanding and legislatively intended exception of CBA determined earnings from excess earnings and the 10% cap/termination pay contribution requirements. MEA-MFT opposes any inference that CBA determined earnings are limited to salary schedule alone."

Mr. Senn also reported that retirement application activity has been very steady this spring, but not overwhelming. Recent refund activity has also been very strong.

## **LEGAL COUNSEL REPORT**

Merle Farrier case. In March, Judge Sherlock heard oral arguments on the Farrier case. Vivian Hammill, Legal Counsel, TRS, reported that she thought the hearing went very well.

Keith Kohnke case. Ms Hammill reported that the Hearing Officer, John C. Melcher, granted the Board's motion for summary judgment. Mr. Kohnke has indicated that he will not appeal the Hearing Officer's decision.

Open Meeting case – Ms. Hammill explained that the Montana Supreme Court, in a recent decision concerning open meetings, held that meetings of public entities, where deliberations of facts and the process of reaching decisions takes place, would be open to public scrutiny. A minimum of two days notice to interested parties is required. She also stated that the majority opinion sets-forth factors to consider when determining if a committee's meetings are required to be open to the public, including:

- 1) whether the committee's members are public employees acting in their official capacity,
- 2) whether the meetings are paid for with public funds,
- 3) the frequency of the meetings,
- 4) whether the committee deliberates rather than simply gathers facts and reports,
- 5) whether the deliberations concern matters of public policy rather than merely ministerial or administrative functions,
- 6) whether the committee's members have executive authority and experience, and
- 7) the results of the meetings.

This list of factors is not exhaustive and each factor will not necessarily be present in every instance of a meeting that must be open to the public. A proper consideration of these factors does not mandate that every internal department meeting meet the requirements of the open meeting laws, although some might. Meetings where staff reports the results of fact gathering efforts would not necessarily be public.

## **INDIVIDUAL MEMBER PETITIONS**

Keith Cooksey – In February, the Board tabled Mr. Cooksey's request regarding the calculation of service credit pending the receipt of copies of Mr. Cooksey's contracts. In addition, the Board was advised that the cost to purchase 1.81 years of service had been based upon an incorrect annualized salary for fiscal year 1992 resulting in Mr. Cooksey paying considerably less than what was required by statute. Mr. Senn reported that the office has received copies of Mr. Cooksey's contracts for all but six years.

Staff Recommendations: based on administrative rule 2.44.401, ARM, staff recommended that the compensation reported each fiscal year should be divided by the base contract amount for that year to calculate service credit; this will result in Mr. Cooksey being credited with a total of 16.39 years of





creditable service. Regarding the years of service Mr. Cooksey purchased in 1992, staff recommended that the Board apply the statutes governing service purchases, and that he be credited with 1.19 years leave service. If the Board adopts staff's recommendations, Mr. Cooksey would be credited with 17.58 years of service. Mr. Senn said Mr. Cooksey contacted him and conveyed that he would accept staff's recommendations.

**MOTION/VOTE:** Mr. Turcotte moved that Staff Recommendations be adopted and Mr. Cooksey be credited with 17.58 years of creditable service. Seconded by Ms. Bogut, the motion carried unanimously.

### **OTHER BUSINESS**

Darrell Rud, SAM, inquired whether the Board would permit Mr. Senn to provide a brief overview of the previous legislative session discussion. Mr. Senn briefly reiterated the Board's legislative proposals.

Interest Rate Credited to Member Accounts - Each year the Board is required to set the rate of interest credited to active member accounts. The minimum rate allowed under §19-20-501, MCA, is 4.0%.

**MOTION/VOTE:** Ms. Foster moved that the interest rate credited to member accounts remain at four percent (4.0%) for the next year. Seconded by Mr. Dubbs, the motion carried unanimously.

### **TRS 2004 – 05 Budget**

Dan Gaughan, Account Fiscal Manager, TRS, presented the proposed budget request for the fiscal year beginning July 1, 2004.

David Swenson, Information Technology Manager, TRS, reported that the proposed budget includes \$180,000 to replace our Web Reporting System. The current system has been plagued with problems due to technical difficulties and firewall issues, and these difficulties will be exacerbated by Microsoft's upcoming changes. Using our current system and lifting the reporting system to the Internet would also offer our members more timely access to their account information and other advantages. Mr. Swenson also indicated that the TRS has requested a quote to fix the existing program, but cost figures were not available in time for the Board meeting.

Chairman Ryan asked Mr. Gaughan why "rent costs" are included in the budget since we own the building?

Mr. Gaughan explained that "rent costs" include State of Montana General Services costs, utilities (sewage, lights, water), building maintenance, and janitorial services.

Chairman Ryan inquired whether there were any additional questions or comments on the Budget?

**MOTION/VOTE:** Mr. Dubbs moved that the budget as submitted and proposed be adopted. Seconded by Ms. Bogut, the motion carried unanimously.

### **Out-of-State Travel Request**

**MOTION/VOTE:** Ms. Bogut moved that the out of state travel request for Mr. Senn and two board members to attend the NCTR Annual Conference October 10th–14th, 2004, in Portland, Oregon be approved. Seconded by Ms. Foster, the motion carried unanimously.



#### Alternative Pay Plan Committee Report

Tammy Rau, Assistant Executive Director, TRS, requested approval of the proposed "Alternative Pay Plan - Leave Time Performance Award Policy" and changes to the "Broadband Pay Plan - Compensation Guidelines."

Rex Merrick, Network Systems Analyst, TRS, on behalf of the TRS staff, conveyed that staff is pleased with the proposed policy and looks forward to its' implementation.

Ms. Bogut said she felt good about the proposed policy.

**MOTION/VOTE:** Mr. Turcotte moved that the "Leave Time Performance Award Policy," and changes to the "Compensation Guidelines" be adopted. Seconded by Ms. Bogut, the motion carried unanimously.

Mr. Senn reminded the Board that the Department of Administration would have to review the "Leave Time Performance Award Policy."

#### TRS Building

In February, the Board asked staff to look into the possibility of transferring the TRS building and land to the Board of Investments (BOI); identifying potential pros and cons. Staff reported that the pension plan accounting standards, Statement No. 25, suggests that the building remain on the TRS financial statements as an operating asset; therefore, staff recommends that the TRS building and land not be transferred to the BOI.

**MOTION/VOTE:** Mr. Turcotte moved that the TRS Building and land remain as is. Seconded by Mr. Dubbs, the motion carried unanimously.

#### Investment Report

Chairman Ryan reported on recent activities of the BOI, referring to the Fiscal Year to Date Performance Report through March 31, 2004 and Economic Newsletters by James R. Penner.

#### Financial Statements, Budget, Delinquent Agency & Travel Reports

Ms. Rau said a delinquent school in Rosebud County, which was listed on the financial statement, is now current. A small school district (Deep Creek) is still delinquent from March and April.

#### Next Meeting Dates – September 9 & 10 and November 12, 2004

In February, the Board discussed holding the September Board meeting in Great Falls. This meeting would be held the evening of September 9th and the morning of September 10th, at a location to be determined. The report on the actuarial audit will be presented at the November 12th meeting.

### **APPLICATIONS AND RETIRMENT BENEFITS**

#### Correction of Overpayment

Dawn Watkins, MSU, Bozeman, on behalf of retired TRS member Kenneth D. Hapner requested that benefits overpaid to Mr. Hapner as a result of the University's failure to report wages for working retirees be waived. Ms. Watkins submitted a copy of MSU-Bozeman's letter of March 1, 2004 in support of this request.

Kenneth Hapner, TRS Member, also appeared before the Board and provided additional information regarding the overpayment.

**MOTION/VOTE:** Mr. Dubbs moved that MSU's request to waive the overpayment to Mr. Hapner be approved. Seconded by Ms. Foster, the motion carried unanimously.





#### Regular, Survivorship, & Adjustments

TRS member Jon Keefe passed away in 1999 leaving three minor children eligible for Minor Child Benefits of \$200.00 per month until they reached age 18. The benefits terminated for two of the minor children when they reached age 18, but continued to be paid to Carolyn R. Keefe because Miss Keefe's birth date was incorrect in the TRS database. Miss Keefe has been overpaid \$7,600.00. In previous correspondence, Miss Keefe's stepfather, Bruce Heckman, suggested that both they and the Board had equal responsibility for the error, and, therefore, proposed that the Board accept 50% of the amount overpaid as a settlement agreement. He also proposed that they repay this amount at \$200.00 per month. Mr. Heckman's also explained that the money has been spent for Ms. Keefe's college expenses, that he recently lost his job, and that they do not have the funds to repay the whole amount owed. At \$200 per month starting June 2004, payments would run through December 2005. A signed agreement was presented to the Board.

Ms. Hammill told the Board that the adult child is now in college and the parents have agreed to pay \$200.00 per month for 19 payments. There would be no additional interest charged.

Chairman Ryan asked if this would be setting a dangerous precedent.

Ms. Hammill explained that because the family now lives in Ohio it might be cost-prohibitive to try to pursue the entire amount in an out-of-state court.

**MOTION/VOTE:** Mr. Turcotte moved that the proposed settlement agreement requiring repayment of \$3,800.00, at \$200.00 per month for 19 months be adopted. Seconded by Ms. Bogut, the motion carried unanimously. Chairman Ryan signed the settlement agreement on behalf of the Board.

#### **DISABILITY APPLICATIONS:**

##### Executive Session to Discuss Disability Applications & Annual Reviews:

The Chair directed the meeting closed at 2:05 p.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 2:35 p.m.

##### **MOTION/VOTE:**

Mr. Dubbs moved that the disability application of Mr. Rodger McConnell be approved. Seconded by Ms. Bogut, the motion carried unanimously.

Mr. Turcotte moved that the disability application of Ms. Sheila L. Kemmer be approved. Seconded by Ms. Foster, the motion carried unanimously.

Ms. Bogut moved that the disability application of Ms. Kerrie L. Byrne be approved. Seconded by Mr. Turcotte, the motion carried unanimously.

Ms. Foster moved that the disability application of Ms. Patti S. Rafferty be approved. Seconded by Mr. Dubbs, the motion carried unanimously.



### **BOARD MEMBER RETIRING**

Ms. Bogut was graciously thanked for serving on the TRS Board. Her decision to retire from teaching changes her status and she will no longer be eligible to serve on the Board as an active classroom teacher.

### **ADJOURNMENT**

Chairman Ryan moved that the May 14, 2004 meeting be adjourned; Ms. Foster seconded. The meeting was adjourned at 2:45 p.m.

Chairperson

Executive Director





## TEACHERS' RETIREMENT BOARD MEETING SEPTEMBER 9 & 10, 2004

### CALL TO ORDER:

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Great Falls School Administration Building, Aspen Conference Room, 1100 Fourth Street South.

### BOARD MEMBERS PRESENT:

Tim Ryan, Chairman  
Mona Bilden  
Scott Dubbs  
Barbara Foster  
Kari Peiffer  
James Turcotte

### STAFF PRESENT:

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director

### OTHERS PRESENT:

#### September 9, 2004:

Jerry Pauli, Superintendent, Thompson Falls Schools  
Bill Thomas, Retired Teacher  
Charlene Suckow, Retired Teacher  
E. Ben Lamb, Retired Teacher  
Bob Jewell, Retired Teacher  
Fred Anderson, Principal, Great Falls High School  
Tom Bilodeau, MEA-MFT

#### September 10, 2004

Don Walters, Executive Director, Montana Retired Teachers' Association, *in absentia*  
E. Ben Lamb, Retired Teacher  
Bob Jewell, Retired Teacher  
Tom Bilodeau, Director of Research & Bargaining, Retired Program Coordinator, MEA-MFT  
Joanne Wright, Disability Applicant

### ADOPT AGENDA – SEPTEMBER 9, 2004:

Chairman Tim Ryan called for additions or changes to the Agenda for September 9, 2004. Seeing none, Chairman Ryan requested a motion to adopt the Agenda. Ms. Barbara Foster moved that the agenda be approved. Seconded by Mr. Scott Dubbs, the motion carried unanimously.



### **ADOPT MAY 2004 MINUTES:**

Chairman Ryan called to approve the minutes from the May 14, 2004 Board meeting. Ms. Foster moved that the May 14, 2004 minutes be adopted. Seconded by Mr. Dubbs, the motion carried unanimously.

### **PUBLIC COMMENT:**

Chairman Ryan asked that each person present introduce himself or herself; provide some information about their background and their interest in the Teachers' Retirement System.

Chairman Ryan called for public comment on Board related items.

Mr. E. Ben Lamb, retired member, commented that TRS retired members received only a 1.5% GABA, while all other State retirement systems received 3.0%. He stated he understood the funding constraints that limited TRS to 1.5%, and asked if the Board was going to consider increasing GABA to 3.0%. Chairman Ryan responded that the TRS Board is totally committed to increasing GABA to 3.0%, but, without additional contributions, it would not be possible to increase GABA in the near future.

Dr. Jerry Pauli, Superintendent, Thompson Falls Schools, stated that he has been a member of the system since 1967 and that he would like to compliment the Board and Staff for the excellent work they do and their willingness and ability to always answer questions when he has called the office.

### **EXECUTIVE DIRECTOR'S REPORT**

Communication Plan – Mr. David Senn, Executive Director, TRS, reviewed the draft communication plan and recommendations prepared by Steve Juetten, Communications Consultant, Milliman, USA. Mr. Senn recommended the Board adopt a prioritized list of recommendations and approve a budget amendment as required.

Motion/Vote: Mr. Scott Dubbs moved to increase the 2005 annual budget by \$15,000, and to direct staff to work with the communications consultant to create a MTRS brand and to review and make recommendations regarding the TRS Web site and the Annual Member Statement of Account. Seconded by Mr. James Turcotte, the motion carried unanimously.

Federal Minimum Distribution Rules – Final Release – Mr. Senn reported that on June 15, 2004, the IRS issued final regulations for required minimum distributions related to defined benefit (DB) plans, and annuity contracts purchased with account balances from qualified plans, IRAs, 403(b) annuity contracts, and 457(b) deferred compensation plans. With certain exceptions, governmental DB plans are subject to these rules. Under the final regulations, TRS members electing a 100% joint and full survivor option (TRS Option A) will be eligible to designate a non-spouse beneficiary that is more than 10 years younger than the member.

The final regulations also include a grandfather clause covering benefits in effect before April 17, 2002, but that do not comply with the new regulations. The TRS has one benefit provision





that will be protected under the grandfather clause: §19-20-702, MCA. This statutory provision allows a retiree to elect a different joint and survivor option and to designate a new beneficiary within 18 months of the death of or divorce from the original beneficiary. This opportunity to change beneficiaries and retirement options would not comply with the new regulations. Future amendments to this section must comply with the new regulations.

Quality Planning for Retirement – Task Force – Dr. Jerry Pauli, Superintendent, Thompson Falls Schools, recommended that the School Administrators of Montana (SAM) create a task force whose responsibility would be to develop information about retirement for Montana educators. Mr. Senn explained that he believed the task force could be used as an advocate for the Teachers' Retirement System, but was concerned the advice in Dr. Pauli's documentation was directed primarily toward administrators, and how they might increase their final average salary and monthly TRS benefits both prior to and after retirement.

Dr. Pauli provided background information on how the idea of a task force came about. He identified the need for retirement planning for current teachers and administrators that goes beyond the basic needs met by the Teachers' Retirement System. Members need to understand the TRS so that they can plan their future and know if they would be better off staying in Montana teaching for 25 years and then moving out of state, or if they would be better off beginning their teaching careers out of state and then returning. They need to know what it will cost them to purchase out-of-state teaching service, and how they become eligible to purchase that service. Dr. Pauli stated there should be a book that explains the benefits and advantages of going to another state, and the benefits that each state offers. He gave examples of retired Montana educators moving out of state and buying their Montana service in another public retirement plan, retiring under the second plan, and drawing two retirement benefits based on the same service.

Dr. Pauli also spoke about the school funding problems in Montana and how salaries are the number one reason Montana is not competitive with other states. He stated that in Thompson Falls it would cost his district \$1 million to increase a beginning teacher's salary from \$22,000, to \$32,000. And, it would cost the state \$1 billion to increase beginning teacher salaries to 72% of the national average.

He asked, why would there be a cost to the TRS if members were allowed to retire, draw their TRS benefits, and then continue to work and pay into the system, without accruing any additional TRS benefits? He does not understand why it would cost the system anything because there would be no new liabilities for the retired member, no liabilities for the new member who would have replaced the retired member, and the system would continue to collect the employee and employer contributions. In other words, wouldn't it make the system more solvent? He also explained that he had spoken with administrators who just want the additional income from the retirement system and they do not understand why it would hurt the TRS. Chairman Ryan responded that we would have the System's actuary review Dr. Pauli's proposal and address the question during the November 12, 2004 meeting.

Chairman Ryan suggested that the task force include an actuary in their planning meetings so that everyone understands the impact the various proposals will have on the TRS. Dr. Pauli conveyed his agreement.



Chairman Ryan asked Dr. Pauli if the meetings and records of the task force would comply with the State's open meeting laws. Dr. Pauli responded in the affirmative.

Mr. Turcotte commented that the task force has to remain conscious of the administrative cost to enhance benefits, and the time and cost to provide the additional information. And, asked who is going to pay the bill? The TRS cannot be expected to fund all of the services the task force may deem necessary or desirable.

Chairman Ryan thanked Dr. Pauli for his comments and recommendations, and for taking the time to travel to Great Fall and meet with the Board this evening.

Executive Summary – Mr. Senn reviewed with the Board the Actuary's letter of September 2, 2004 regarding the impact on the retirement factors of changing the actuarial assumed interest rate from 8.0% to 7.75%. The new termination pay factors under option 1 will increase slightly because assumed future earnings are less, necessarily requiring a larger contribution at the time of retirement to actuarially fund the benefit increase. The new service purchase formula for determining the actuarial cost to purchase service will result in larger factors at older ages because of lower anticipated investment earnings. However, factors at younger ages are smaller than current factors because smaller anticipated salary increases make the anticipated benefit smaller. Depending on the retirement option selected, and the ages of the member and their beneficiary, the optional retirement factors will also be reduced to account for the lower than anticipated investment returns.

Actuarial Review/Audit – Mr. Senn reported that Mellon Human Resources and Milliman have been working together on the actuarial audit; sharing information required for the review/audit of the past two experience studies Milliman has completed for the TRS, and a replication audit of the July 1, 2004 actuarial valuation. Through August 2004, Mellon had not reported any findings or concerns regarding the experience studies. Mellon's fixed fee for this service is \$28,000; and, through July 2004, the TRS has received invoices totaling \$3,172.00. In addition to the cost of the review/audit, the TRS anticipated we would incur additional charges of approximately \$10,000 from our consulting actuary, Milliman, USA, for work related to the audit. Through July 2004, Milliman has billed the TRS \$4,379.00.

Employer Reporting System – Mr. Senn reported that development to replace the TRS Employer Web Reporting System was slightly ahead of schedule, and that we anticipate the new system will be completed under budget and on time.

Settlement Agreement – In May 2004, the Board approved a settlement agreement allowing Carolyn R. Keefe's stepfather, Bruce Heckman, to repay minor child benefits she received in error at the rate of \$200 per month, for a total of 50% of the amount overpaid. Mr. Senn reported that through August the TRS had received payments for May, June, and July. The August payment was overdue.

## **PROPOSED LEGISLATION - 2005 SESSION**

Actuarial Funding – The Board reviewed the September 1, 2004 letter from the Actuary, Mark Olleman, regarding the projected TRS funded status as of July 1, 2004, and the increased





contribution rate required to maintain a 30-year amortization schedule. Mr. Olleman estimated, based on returns through June 30, 2004, and the 2002 member data, that a 2.64% increase in the employer contribution rate would be required. If the increase were graded-in with four equal increases on July 1st of 2005, 2007, 2009 and 2011, then four increases of 0.78% would be needed.

Mr. Senn presented a second letter from the Actuary dated September 1, 2004 regarding the cost impact of suggested new plan design changes for future members, and reviewed the history of the funding options the Board had discussed over the past year. Mr. Senn recommended the following changes in member benefits and employer contribution rate increases:

- Pay full benefits after 30 years of service and age 55, instead of 25 years of service at any age.
- Include the member's five highest consecutive years' earnings in the calculation of average final compensation instead of the three highest consecutive years' earnings.
- Increase the earliest age at which a member can receive an early retirement benefit from age 50 with 5 years of service to age 55 with five years of service.
- Amend §19-20-501, MCA, and replace the minimum rate of interest credited to member accounts from the current rate of 4.0% with a prudent standard tied to the short-term investment market.
- Increase the employer contribution rate to pick-up the difference between the total contribution rate required to fund the TRS and the savings which result from any benefit changes. In lieu of a one-time increase, an employer contribution rate increase should be increased in each of the next four biennia.
- Increase the University System's supplemental contribution rate from 4.04% to 5.66% to ensure amortization of the University System's past service liability by July 1, 2033 as required by §19-20-621, MCA.

Mr. Fred Anderson, Principal, Great Falls High School, thanked the Board for the opportunity to speak with them, and complimented the TRS staff on their professionalism and the excellent service he has always received. He stated that he agrees with the Executive Director's recommendation that the Board not change the multiplier for new hires from  $1\frac{2}{3}\%$  to  $1\frac{1}{2}\%$  as this would be a very regressive action which would not help schools in their recruitment of new teachers and administrators. He stated that he was an advocate for a 2.0% multiplier combined with a floor on the age when you could retire so that we do not retire people so they can go out of state.

Dr. Pauli commented that because of health insurance costs, people realistically are looking at not being able to retire until age 62 or 65, unless they have a spouse who has health insurance through their employment or they are going out of state to another job. He stated that he too would support a floor on the age at which a member could retire.

Mr. Bob Jewell, Retired Teacher, commented that he thought the level of benefits provided to teachers was ridiculous. He thought it was fine to talk about increasing multipliers for future retirees, but there are two groups, active and retired teachers. Mr. Jewell talked about the history of salaries paid to Montana teachers and the cost of insurance, stating that many retired teachers do not have health insurance; sighting as an example, a teacher he knows who after 19



years teaching in Montana was receiving only \$162.00 per month. Mr. Jewell commented on the legislation that required state retirees to pay state income taxes, and the fairness of benefits provided to teachers at  $1\frac{2}{3}\%$  of their average final salary as compared to benefits paid to state judges at 3.0% of their average final salary, questioning the sufficiency of the TRS benefit multiplier. Mr. Jewell concluded, stating he would like to see a little more emphasis on the old retirees and decreased emphasis on future retirees.

TRS Housekeeping Proposal – The Board discussed the general housekeeping amendments as presented. In addition, Mr. Senn recommended that in lieu of canceling a retired member's benefit whenever they earn more than allowed under §19-20-804, MCA, that future benefits be reduced by \$1.00 for each \$1.00 they earn in excess of the maximum allowed. Retired benefits would be cancelled only if the monthly retirement benefit is reduced to \$0.00 or the retired member returns to full-time employment. Ms. Foster commented that she felt it was a good idea to reduce benefits rather than cancel a retired member's benefit when they earned more than allowed.

Professional Retirement Option – Mr. Tom Bilodeau, MEA-MFT, commented that the MEA-MFT would again this session support the "Professional Retirement Option," with an anticipated employer cost of 2.02% of salary. The intent of the proposal is to help retain experienced teachers and administrators in the public school system. This proposal would offer enhanced retirement benefits to members of the TRS who postpone termination and retirement until they are at least age 55 and have 30 or more years of creditable service. Eligible members would receive benefits calculated using a 2.0% multiplier rather than the current multiplier of  $1\frac{2}{3}\%$ . The effective date of the proposal would be July 1, 2007, and retired members who return to work and give up their current benefits would have to work at least two full years to be eligible for the enhanced benefit.

Guaranteed Annual Benefit Adjustment (GABA) Increases - Mr. Senn stated that at least two proposals have been discussed by the Montana Retired Educators Association to increase the GABA. The first proposal would increase GABA from 1.5% to 1.67% and would require approximately a 0.70% increase in the employer contribution rate. The second proposal would increase GABA to 3.0%, requiring a 6.08% increase in the employer contribution rate from 7.47% to 13.55%.

Mr. Jewell commented that increasing GABA from 1.5% to 1.67% was pretty small. He stated that he was all for getting 3.0% because PERS is getting 3.0%. Mr. Jewell suggested that we needed to look at other sources to fund GABA, and that we could do better on our investments. He encouraged the Board to support a 3.0% GABA, stating the 1.67% was kind of ridiculous.





### Other Legislation & Public Comment:

Mr. Bilodeau provided the Board with an in-depth review of the proposal being developed to offer school districts a statewide health insurance program. The program would be available to both active and retired educators.

The Board Adjourned at 7:00 p.m., September 9, 2004.

The regular meeting of the Teachers' Retirement Board reconvened on Friday, September 10, at 8:30 a.m.; first considering items remaining from the September 9th Agenda.

### PERSONNEL COMMITTEE

Ms. Tammy Rau, TRS, reviewed the changes recommended by the Department of Administration to the "Leave Time Performance Award Policy", explaining the recommendations did not materially change the policy approved by the Board in May 2004. If the Board does not have any other changes or comments on this policy, we will advise the Department of Administration that this is the final version.

Ms. Rau also reviewed the "Lump Sum Performance Reward Policy" stating that the draft had been given to staff for their comments and suggestions, and none were received. It is anticipated that the Board will make the final decision on the proper reward amounts. The personnel committee will continue to work on the "Lump Sum Performance Reward Policy" anticipating that a final policy would be presented to the Board in November for their consideration.

### OTHER BUSINESS

#### Board of Investments Report

Chairman Ryan explained that the Teachers' Retirement and Public Employees' Retirement Boards each have a representative on the Board of Investments (BOI); and, that he is the TRS representative. Chairman Ryan reported that the Chief Investment Officer for the BOI recently retired and the Board is working with a consultant to review the BOI's procedures and how they invest state assets. Chairman Ryan commented on the role of the Board to set and monitor asset allocation, and review the returns of the Short Term Investment Pool; Domestic, International, and Private Equities; Real Estate Equity, and Domestic and International Fixed Income.

#### Next Meeting Date – November 12, 2004

The report on the actuarial audit and the July 1, 2004 TRS Valuation will be presented at the November 12th meeting.

#### Financial Statements, Budget, & Delinquent Agency Reports

Ms. Rau reviewed the delinquent agency report and informed the Board that Mountain View Elementary, had combined with another school district.





## **ADOPT AGENDA – SEPTEMBER 10, 2004:**

Chairman Tim Ryan called for additions or changes to the Agenda for September 10, 2004. Seeing none, Chairman Ryan requested a motion to adopt the Agenda. Ms. Barbara Foster moved that the agenda be approved. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

## **PUBLIC COMMENT**

Chairman Ryan called for public comment on Board related items.

Mr. Jewell suggested that the Annual Report of Teachers' Retirement System identify the current occupation of each member of the Board.

## **INDIVIDUAL MEMBER PETITIONS**

George W. Gerard – Mr. Senn explained that Mr. Gerard is a retired member who returned to full-time employment in October 2001; resulting in cancellation of his TRS benefits pursuant to §19-20-804, MCA. At the time his benefit was cancelled, he was receiving a monthly retirement benefit of \$1,619.72. This included GABAs of \$47.52. When he retired again in June 2002, his benefit was recalculated based on one additional year of creditable service, which should have resulted in a new monthly benefit, excluding GABA, of \$1,631.09. Under the provisions of §19-20-804, MCA, members reemployed for a minimum of one year of "full-time service" must receive a recalculated retirement benefit. Section 19-20-804(1), MCA, defines how a retirement benefit must be calculated; i.e., one-sixtieth of the member's average final compensation multiplied by the number of years of creditable service. Section 19-20-804(4)(c) states that the recalculated benefit must be based on the service credit accumulated at the time of the member's previous retirement plus any service credit accumulated subsequent to reemployment. Section 19-20-804, MCA, provides that the recalculated benefit is to be based on the member's average final compensation multiplied by the number of years of creditable service; it does not provide for the recalculation to include past GABAs.

Mr. Senn reported that Mr. Gerard's initial recalculated benefit was incorrectly paid at \$1,678.61 per month. This benefit included previously awarded GABAs of \$47.52, which also overstated the 2004 GABA. The overall effect was an overpayment in the amount Mr. Gerard received of \$1,096.51. Staff has advised Mr. Gerard that the overpayment must be returned to the TRS; Mr. Gerard appeals staff's decision.

Mr. Gerard stated that the issue here is a matter of fairness and he believes the statute governing the recalculation of benefits does not address GABA calculations. He stated that he believes GABA was not addressed in §19-20-804 because GABA legislation was passed several years after §19-20-804 was already on the books, and that by not amending §19-20-804 the legislature did not intend to exclude GABA from the recalculation of benefits. He stated that because the statute is silent on including GABA in the recalculation it is left to the discretion of the TRS to add it or not add it. He emphasized that it is a matter of basic fairness; he was receiving GABA before he returned to work for Flathead Community College and it should not have been taken away when his benefit was recalculated.



Mr. Gerard also argued that he did not work a full contract year and therefore his benefit should not have been recalculated. He stated that Administrator's contracts at Flathead community college are for 12 months; he only worked nine months.

Mr. Senn explained that §19-20-101, MCA, defines "full-time service" as service that is full-time and that extends over a normal academic year of at least nine months. Mr. Gerard worked nine months of a 12-month contract, earning \$37,500.00 and contributing \$2,681.28 to the TRS. Had the TRS not recalculated Mr. Gerard's benefit in June 2002, he would have been reinstated with a monthly benefit of \$1,619.72, which included GABAs of \$47.52. Currently, Mr. Gerard is receiving a monthly benefit of \$1,655.56.

Mr. Senn distributed a letter from Mr. Donald Walters, Executive Director, Montana Retired Educators Association, supporting Mr. Gerard's position regarding administrator contracts, and requesting the Board reevaluate the recalculation of benefits.

Mr. Dubbs stated that the question is should Mr. Gerard continue to receive the GABAs awarded previous to his benefit being recalculated? Mr. Dubbs stated that he agrees that he should. Adding that, had Mr. Gerard been receiving GABA for eight or nine years, he would suffer a significant loss of benefits not contemplated by the GABA legislation or the statute governing the recalculation of benefits.

Ms. Foster stated that she also agrees it is a matter of fairness.

Mr. Turcotte suggested, because the statute is silent, until it can be corrected, the TRS should recalculate the benefit to include previously awarded GABAs.

Chairman Ryan asked Vivian Hammill, Legal Counsel, TRS, if she could suggest a motion to recalculate benefits including previous awarded GABAs. Ms. Hammill responded that statutes are silent on a number of different questions, but that does not mean that boards get to do something the statute does not speak to. Ms Hammill suggested legislation be proposed to fix the problem retroactive to Mr. Gerard's second retirement effective date of July 1, 2002.

**MOTION/VOTE:** Mr. Dubbs moved the Board propose legislation to amend current law to include previously awarded GABAs when benefits are recalculated following a period of reemployment and to table action on Mr. Gerard's appeal. Second by Mr. Turcotte, the motion carried unanimously.

### **LEGAL COUNSEL REPORT**

Vivian Hammill reported on the Annual Conference of the National Association of Public Pension Plan Attorneys.

Merle Farrier case. In March, Judge Sherlock ruled against the Teachers' Retirement System. His decision has been appealed to the Montana Supreme Court.





Ruey-Lin Lin case. Mr. Lin has appealed the Board's May 2004 decision to deny his request for an exemption to the 10% cap. A Hearings Officer has been appointed through the Department of Justice, Agency Legal Services Bureau. A decision is not expected before the end of October.

## **APPLICATIONS AND RETIREMENT BENEFITS**

Regular, Survivorship, & Adjustments The Board reviewed the Regular, Survivorship, and Adjustment Report.

### **DISABILITY APPLICATIONS:**

#### Executive Session to Discuss Disability Applications & Annual Reviews:

The Chair directed the meeting closed at 10:15 a.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 10:35 p.m.

**MOTION/VOTE:** Ms. Mona Bilden moved that the disability application of Robert Craig Wren be approved. Seconded by Mr. Dubbs, the motion carried unanimously.

Mr. Turcotte moved that the disability application of Ms. Joanne H. Wright be tabled. Seconded by Ms. Bilden, the motion carried unanimously.

Ms. Foster moved that the disability application of Ms. Janet M. Faiman be approved. Seconded by Ms. Kari Peiffer, the motion carried unanimously.

Mr. Dubbs moved that the service retirement application of Ms. Linda Z. Coates be changed to a disability retirement application made retroactive to July 1, 2002, and that the disability application be approved. Seconded by Ms. Bilden, the motion carried unanimously.

Mr. Turcotte moved that Sherri R. Archer be excluded from future annual medical and earnings reporting requirements. Seconded by Ms. Foster, the motion carried unanimously.

### **Election of Officers**

Chairman Ryan called for nominations for the position of Chair of the Teachers' Retirement Board. Mr. Turcotte nominated Scott Dubbs for the position of Chair. Chairman Ryan asked if there were any additional nominations. Ms. Foster nominated Tim Ryan. Seeing no further nominations, Chairman Ryan called for the vote. Tim Ryan was reelected Chair of the TRS Board.

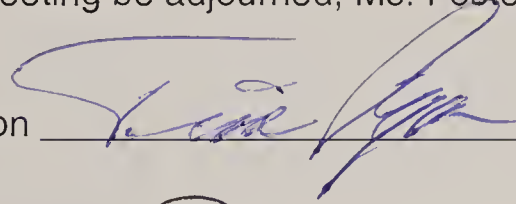
Chairman Ryan called for nominations for Vice-Chair. Ms. Foster nominated Scott Dubbs for the position of Vice-Chair. Mr. Turcotte moved that nominations be closed and a ballot cast. Mr. Dubbs was elected Vice-Chair of the TRS Board unanimously.



**ADJOURNMENT**

Chairman Ryan moved that the September 2004 meeting be adjourned; Ms. Foster seconded.  
The meeting adjourned at 11:45 a.m.

Chairperson



Executive Director





## TEACHERS' RETIREMENT BOARD MEETING NOVEMBER 12, 2004

### CALL TO ORDER:

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Board of Investments Conference Room, 2401 Colonial Drive, Helena, Montana.

### BOARD MEMBERS PRESENT:

Mona Bilden  
Scott Dubbs  
Barbara Foster  
Tim Ryan, Chairman  
Kari Peiffer  
James Turcotte

### STAFF PRESENT:

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Vivian Hammill, Legal Counsel  
Natalie Chamberlain, Executive Secretary  
Dan Gaughan, Accounting/Fiscal Manager  
Helen Gonsowski, Benefits Officer

### OTHERS PRESENT:

David Slishinsky, Mellon  
Mark C. Olleman, Actuary, F.S.A., M.A.A.A., Milliman  
Tom Bilodeau, MEA-MFT  
Kristi Rosseland, Senior Budget Analyst, Office of Budget & Program Planning  
Charlotte Thomas, Legislative Chair, Montana Retired Educators' Association (MREA)  
Joanne Wright, Disability Applicant  
Pearl Allen, Financial-Compliance Audit  
Glen Leavitt, Montana University System  
Bob Vogel, Montana School Board Association  
Kathy Bramer, Office of Public Instruction  
Don Bidwell, S C Administration  
Bob Bungni, Interim CIO, Board of Investments  
Julie Sykes, School Administrators of Montana (SAM)





### **ADOPT AGENDA –NOVEMBER 12, 2004:**

Chairman Tim Ryan called for additions or changes to the Agenda for November 12, 2004. Seeing none, Chairman Ryan requested a motion to adopt the Agenda. Mr. James Turcotte moved that the agenda be approved. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

### **ADOPT SEPTEMBER 9 AND 10 MINUTES:**

Chairman Ryan called for a motion to approve the minutes from the September 9 and 10, 2004 Board meeting. Mrs. Kari Peiffer moved that the September 9 and 10, 2004 minutes be adopted. Seconded by Mr. Dubbs, the motion carried unanimously.

### **ACTUARIAL REVIEW/AUDIT**

Mr. David Senn introduced Mr. David Slishinsky of Mellon Human Resources. Mr. Slishinsky was hired jointly by the Legislative Auditor's Office, Teachers' Retirement Board and the Public Employees Retirement Board to complete a full reproduction audit of the July 1, 2004 actuarial valuation results, and review the recent experience studies, actuarial assumptions and methods used in the valuation prepared by the TRS actuary, Milliman. Mr. Slishinsky stated that the purpose of his report was to confirm that Milliman's calculations are right, that the funded status of the system is correctly disclosed in the actuarial report and that the annual contributions required to fund the system are calculated correctly.

Mellon concurred with the results of the July 1, 2004 actuarial valuation stating, that their full scope review of the TRS found that the actuarial valuation fairly represents the actuarial position and funding requirements of the retirement system. Mellon's report included recommendations to improve the readability of the valuation report, and that the actuarial valuation be prepared annually.

### **ACTUARIAL VALUATION**

Mr. Senn introduced Mark C. Olleman, Actuary, F.S.A., M.A.A.A., Milliman, consulting actuary. Mr. Olleman commented that he was pleased with the results and findings of the 2004 Actuarial Valuation audit. Mr. Olleman presented the July 1, 2004 Actuarial Valuation stating that the valuation results indicate that an actuarial loss occurred during the preceding two fiscal years. The loss is primarily due to lower returns on the assets than expected by the actuarial assumptions, and is reflected in the 1.6% and 2.1% net investment return on an actuarial basis for the past two years. As a result, current contributions are not sufficient to amortize the Unfunded Actuarial Accrued Liability over 30 years or less; therefore, the system is not actuarially sound. Milliman recommended an increase in the employer contribution rate of 2.87% (7.58% to 10.45%) as of July 1, 2005 to maintain an amortization of the unfunded actuarial accrued liability over the 30 years, beginning July 1, 2004. Mr. Olleman explained that the contribution increase could be phased in over a number of years, or lessened by lowering the value of benefits provided for future members.



**MOTION/VOTE:** Mr. Turcotte moved the Board accept the Actuarial Valuation. Second by Mr. Dubbs, the motion carried unanimously.

### **UPDATED ACTUARIAL FACTORS**

Mr. Olleman reviewed for the Board the recommended changes to the actuarial factors and service purchase formula resulting from the new investment rate assumptions approved by the Board.

Termination Pay - Termination pay Option 1 requires that the member and their employer pay contributions to the retirement system as determined by the Board to adequately compensate the system for the additional retirement benefits received. Mr. Senn recommended that current members be given ample notice that the contributions required under termination pay option 1 will increase, and postpone the effective date of the new factors to retirement benefits effective after July 1, 2005.

Actuarial Cost to Purchase Service – Several provisions found in the TRS laws governing the purchase of service require that the actuarial cost of the service purchased be based on the most recent actuarial valuation of the system. Mr. Senn recommended that the updated actuarial service purchase formula be made effective December 1, 2004.

Optional Retirement Factors – Retiring members may elect an optional retirement allowance that guarantees, upon their death, benefits will continue to their designated beneficiary. Mr. Senn recommended that current members be given ample notice that the updated factors may result in a slightly lower optional retirement allowance, and postpone the effective date of the new factors to retirement benefits effective after July 1, 2005.

**MOTION/VOTE:** Mr. Turcotte moved the Board adopt the updated actuarial factors as recommended by staff. Second by Mr. Dubbs, the motion carried unanimously.

### **PROPOSED LEGISLATION - 2005 SESSION**

Actuarial Funding Proposal - Mr. Senn presented the actuarial funding proposal and asked Mr. Olleman to discuss the actuarial effect of the three proposed plan design changes: (1) Increase the earliest age at which a member can receive an early retirement benefit from age 50 with 5 years of service, to age 55 with 5 years of service. (2) Pay full benefits after 30 years of service and age 55, instead of 25 years of service at any age. (3) Changing the annual average final compensation from 3 highest consecutive years' to 5 highest consecutive years.

Mr. Olleman stated he could not understate the importance of plan design changes and the possible impact, both positive and negative, these changes will have on future members. These types of changes can only be made years and years ahead of time anticipating or guessing what world changes and life expectancy ages will be in 30 to 40 years. Any proposed changes should take into consideration financial needs of the employees, employers and the State.

Chairman Ryan commented that TRS does not have the same financial vehicles as some private sectors, so the Board always needs to be conscience of the impact any changes will have on funding as well as members, but cannot make decisions in a vacuum either. Chairman





Ryan did not want to create a package that was not beneficial and competitive for the Montana TRS members.

Mr. Dubbs suggested the Board look at other planning options. Mr. Dubbs is not in favor of cutting future member benefits. He would be in favor of asking the Legislature for the 2.87% increase in contributions, and would like to continue working with current active members to come up with a plan that they would like to have in place in 30 years.

Mr. Turcotte commented that he agreed with Mr. Dubbs. Mr. Turcotte was concerned that changing future benefits for new hires could affect Montana's recruitment of new teachers.

Chairman Ryan commented that the reality of retirement plans was that people are living longer and systems are going to have to change their retirement ages to ensure sound monetary retirements for older retirees.

Mrs. Peiffer commented that early retirement, as a new teacher, was not a high priority. Her beginning salary was more of a concern. Now that Mrs. Peiffer has 10 years in as a teacher, she feels that we should look into new retirement solutions for TRS members.

Mr. Senn acknowledged to the Board that this was an action item and asked if the Budget Office would like to address the Board.

Ms. Kristi Rosseland, Senior Budget Analyst, Office of Budget & Program Planning commented that she thought it was too late to pull out the legislative proposals that had been submitted and already put into the governor's budget. Ms. Rosseland encouraged the Board to support the legislation and at a later date make the minor modifications.

Mr. Bilodeau stated MEA-MFT would agree to a 30-year retirement system based on a 2.0% formula for new hires. MEA-MFT would oppose all other proposals. Any attempts to move the TRS system to a to 5 year averaging system or imposing a 30 year system without the 2.0% formula adjustment is unacceptable.

**MOTION/VOTE:** Mr. Dubbs motioned the Board support the 2.87% contribution rate increase, phased in over time, without changing benefits for new members. Mrs. Peiffer seconded the motion.

Chairman Ryan noted that the Board has moved and seconded the funding increase but not the plan design changes for new members. Chairman Ryan then asked Mr. Senn how this would be handled.

Mr. Senn responded that if the budget office would not agree to accept the proposed changes that the Board would have to ask the legislature to amend the bill after it was introduced.

Chairman Ryan called for the vote. The motion passed 5 to 1.

Chairman Ryan called for any other public comments on legislative items.



Mr. Bilodeau, MEA-MFT, provided the Board with an update on the K-12 Statewide Health Insurance Program (SHIP). The SHIP has unanimous interim legislative committee support and will be carried as a committee bill by Representative Tom Facey. The Governor's renewal commission has also endorsed the bill, and SHIP is part of a four-point immediate finance reform package in response to the adequacy and quality educational lawsuit.

Mr. Bilodeau, commented that both the MEA-MFT and the School Administrators of Montana have indicated that they will support a Professional Retirement Option (PRO) during the 2005 Session to change the TRS benefit formula from 1.6667 to 2.00 percent of salary per year of service for members age 55 or older who retire with 30 or more years of creditable service.

Mr. Bob Vogel, Montana School Board Association noted that his organization does favor the PRO concept primarily for retention of administrators in Montana. Mr. Vogel had a question about the 2.87% increase required to actuarially fund the TRS, how it would be phased in and also when does the 5 highest consecutive year change become effective immediately or is it only for new members?

Mr. Senn replied that the current bill would increase the employer contribution rate in each of the next two biennia by adding 1.2% to the current 7.47% effective July 1, 2005 then another 1.2% added on top of that effective July 1, 2007. The rate would not be reduced until the system was actuarially funded and could maintain a 25 year amortization period without the additional funding.

Chairman Ryan asked if the phase out of the 2.87% contribution rate increase was required under the proposed legislation, or would it be a vehicle, if the performance was better than expected, to increase the GABA to 3.0 percent?

Mr. Senn responded that if the performance was better than expected, it would go to amortize UAAL, and once the system could maintain a 25-year amortization period without the supplemental contribution, then the supplemental rate increase would terminate. Until the system can support a 25-year amortization period without the additional 2.87% contribution rate increase, the Board would not be able to increase GABA.

Mr. Senn also responded to Mr. Vogel's question regarding new hires. The actuarial funding proposal as written would apply only to new members first hired into a position covered by the TRS after July 1, 2005.

TRS Housekeeping Proposal - Mr. Senn explained the housekeeping proposal included changes necessary to: clarify the provision for establishing a governmental excess benefit arrangement and eliminating the provision's contingent effective date; clarify provision on the redeposit of contributions for previous membership service by striking relevant language in current code sections and recodifying the language as a new section; clarifying the provision on employee's termination pay contributions; clarify the provision on retirees returning to employment by striking relevant language in current code sections and recodifying the language as a new section; revising and making retroactive the provisions governing the recalculation of benefits when a retired member returns to employment and retires a second time; and providing for the reduction of retirement benefits in lieu of canceling the benefits when a retiree earns





more than one-third of the average final compensation. The Board discussed the general housekeeping amendments as presented.

**MOTION/VOTE:** Mr. Dubbs moved the Board accept the housekeeping proposals. Second by Mr. Turcotte, the motion carried unanimously.

Other Legislative Proposals: Mr. Senn advised the Board that Mr. Gregory P. Paulauskis had voiced concerns that his election to participate in the University System's Optional Retirement Plan (ORP) had resulted in lesser benefits than he deems fair, and that even if he were to again find himself in the Montana TRS he would not be able to purchase his ORP service. However, TRS members who taught in an out-of-state university system would be eligible, once vested, to purchase up to 5 years of out-of-state teaching service.

Mr. Senn asked if the Board wanted to include an amendment in the housekeeping bill that would permit members to purchase Montana ORP service based on the actuarial cost? If so, should this purchase be limited to 5 years, as are private teaching and out-of-state teaching service, or limited to time covered under the Montana ORP?

Chairman Ryan responded that as long as the new members are purchasing the service at the actuarial cost, why would we want to limit their ability to purchase it?

Mr. Dubbs asked if other purchases for out-of-state teaching services were at actuarial costs?

Mr. Senn responded that they are at actuarial cost if you became a member of the System after July 1, 1989.

Mr. Turcotte asked if the proposal would cover only those people that had teacher's retirement service prior to going into the ORP?

Mr. Senn responded no, the proposed amendment would apply to all TRS members who had prior Montana ORP service.

Mr. Turcotte commented that as long as the member was charged the actuarial cost to purchase their ORP service and that the time purchased is limited to 5 years, he would support including the amendment in the TRS housekeeping bill. It was the consensus of the Board to include an amendment in the housekeeping bill to allow TRS vested members with service in the Montana University System's ORP to purchase up to 5 years of ORP service at the actuarial cost.

Professional Retirement Option (PRO) - This proposal is designed to retain experienced teachers and administrators in the public school system by offering enhanced retirement benefits to members of the TRS who postponed termination and retirement until they are at least age 55 and have 30 or more years of creditable service. Eligible members would receive benefits calculated using a 2.0% multiplier rather than the current 1⅔%. This proposal will require a 2.02% increase in the employer contribution rate, or approximately \$12 million per year.

It was the consensus of the Board to support the professional retirement option.





GABA Increases - The Montana Retired Educators Association presented two proposals. The first proposal would increase GABA from 1.5% to 1.67%, and the second proposal, supported by Great Falls retired teachers, would increase GABA to 3.0%. The employer contribution rate increases required to fund each of the proposed GABA increases are 0.70% and 6.08% respectfully.

Charlotte Thomas, Legislative Chair, Montana Retired Educators' Association (MREA) informed the Board that MREA had met last week and MREA agreed that the 3% GABA was not attainable. MREA voted to seek legislation to increase GABA from 1.5% to a 2%. Ms. Thomas explained that in 1999 the legislature approved the 1.5% GABA, and in 2001 the legislature authorized the TRS Board to increase GABA to 3%, as the required funding became available. Since the funding is not available right now, MREA is going to try to get to a 2% GABA. It was the consensus of the Board to support the 2% GABA.

Working After Retirement – The Board's current position is to oppose legislation that would allow retirees to return to full-time TRS positions and continue to draw full retirement benefits.

During the September TRS Board Meeting, Dr. Jerry Pauli suggested that members eligible for normal retirement should be allowed to draw retirement benefits as soon as they are eligible and continue to be employed, provided both the retired/rehired member and their employer continue to contribute to the TRS the normal contribution rates of 7.15% and 7.47% of their total salary; however, no additional TRS benefits would accrue to the retired/rehired member.

Mr. Olleman commented that the main reason this legislation is so expensive is because members are retiring at a younger than expected age. Where you see the majority of the cost is when members are able to retire after only 25 years and almost no one continues to participate as an active member in the TRS. Everyone begins to draw benefits after 25 years.

Minimum Benefit Adjustment for Disability Benefit Recipients - Mr. Senn reported that Representative Dee Brown has requested legislation to provide a minimum benefit adjustment for TRS retired members receiving disability retirement benefits. This would be a one-time adjustment, paid to all eligible recipients on July 1, 2005. The minimum monthly benefit would be equal to \$24.00 per year of service. For example: A disability benefit recipient with 20 years of service currently receiving \$400.00 per month would see their monthly benefit increased \$80.00. There are approximately 43 eligible recipients; their average years of service and benefit are 12.50 years, and \$392.00.

It was the consensus of the Board to support this proposal.

Public Comment On Proposed Legislation - Bob Vogel, Montana School Board Association commented that there is a concern among those who are involved in the educational field. We have administrators who have 25 years in Montana then we lose them to Washington, Oregon, Idaho and Wyoming. Mr. Vogel commented that Mr. Pauli's proposal may not be the solution to the problem but applaud Jerry for some of his ideas for trying to keep some seasoned administrators in Montana.

Kathy Bramer, Office of Public Instruction questioned the IRS issues involved with maintaining a qualified plan and work after retirement proposals.



Mr. Olleman explained that you would want to pursue with the systems attorney's to make sure it's viable with the IRS qualification rules. The key issues they look at are the normal retirement age and is there a separation from service.

### **PUBLIC COMMENT**

Chairman Ryan called for public comment on Board related items. There being none, the Chairman adjourned the meeting for lunch.

The regular meeting of the Teachers' Retirement Board reconvened at 1:15.

### **EXECUTIVE DIRECTOR'S REPORT:**

2005 GABA Adjustment - Following each Actuarial Valuation, pursuant to §19-20-719, MCA the Board must determine if sufficient funding is available to increase GABA from 1.5% to a maximum of 3.0%. Because the July 1, 2004, the valuation showed the amortization period was in excess of 30 years, staff recommended GABA not be increased above 1.5 percent.

**MOTION/VOTE:** Mrs. Barbara Foster moved to keep GABA at 1.5%. Seconded by Mrs. Peiffer. The motion carried unanimously.

### **EXECUTIVE SUMMARY**

Mr. Senn reported that the Legislative Auditors Office was completing the financial and compliance audit of the TRS. Staff anticipates the final report will contain one recommendation that the Board seek legislation to maintain an actuarially sound system. There have also been discussions with the auditors about whether they would qualify their opinion because the system is not actuarially sound.

Mr. Senn reported that the current Goals and Objectives of the Board need to be updated for the current biennium and asked if the Board would like to appoint a committee to work with staff. Jim Turcotte and Scott Dubbs volunteered to be on the committee.

### **LEGAL COUNSEL REPORT:**

Vivian Hammill reported on the following cases.

Merle Farrier case. The court reporter in Judge Sherlock's courtroom has filed a motion with the Supreme Court for an extension of time to file the transcript. This has delayed our appeal.

Ruey-Lin Lin case: Ms. Hammill reported that oral arguments for summary judgment on the Mr. Lin's case were presented on November 5, 2004. Ms. Hammill expected a decision sometime between 2004 and 2005.

Suspected embezzlement case: Ms. Hammill advised the Board that she has talked to the chief investigator in Colorado, Sandra Wells, who indicated the case has been given high priority.





## **OTHER BUSINESS:**

2005 Meeting Dates - The Board discussed the following tentative meeting dates for 2005: February 18, May 13, September 9, and November 18.

**MOTION/VOTE:** Chairman Ryan called for a motion that the meeting dates for the 2005 Board meetings be adopted. Mr. Turcotte moved that the meeting dates be approved. Seconded by Mrs. Foster. The motion carried unanimously.

Out of State Travel - Mr. Senn has for the past several years been asked to serve on the Legislative Committee of the National Council on Teachers' Retirement, which meets in Washington, DC, around the end of January or the first part of February. Mr. Senn requested that if asked to serve again this year on the NCTR Legislative Committee that the Board approve the out-of-state travel request.

**MOTION/VOTE** Mrs. Foster moved that Mr. Senn's out-of-state travel request to attend the NCTR Legislative Committee meeting in Washington D.C. be approved. Seconded by Mona Bilden, the motion carried unanimously.

NCTR Annual Conference Report - Mrs. Foster and Mr. Senn reported on the NCTR Annual Conference that they attended in Portland, OR. They both found it very beneficial and informative. Informative speakers included Steve Roberts, Harvey J. Goldschmidt, Tim Kelly from Social Security, Neil Howe and George Freedman.

Investment Report - Chairman Ryan gave an updated investment report. Chairman Ryan informed the Board of some new portfolio strategies that the BOI are looking at for the next six months; including small cap investments and also some European investments. At the last Board meeting the Board of Investments agreed to continue investing in Montana mortgages.

Financial Statements, Delinquent Agency, Travel, and Budget Reports - Mrs. Tammy Rau, Deputy Executive Director, introduced Dan Gaughan, Accounting/Fiscal Manager to answer questions about financial statements and current budget reports for the 2005 fiscal year. Mr. Gaughan reported that the contract with Milliman was originally projected not to exceed \$64,500.00; however, currently we are already at \$55,000.00 with anticipated total costs of \$68,000.00 to \$69,000.00 by fiscal year end. The higher than anticipated charges are due to the cost of letters regarding new legislation. We have been billed for about thirteen letters so far this year. Also, a remodel of the air conditioning system has exceeded the \$6,000.00 estimate we received by about \$8,000.00. Lastly, the update for the Employer Web Reporting System has come in under budget. The software we originally estimated to be about \$40,000.00 has been reduced to an annual maintenance agreement of \$8,000.00, resulting in a savings of about \$32,000.00. Mr. Gaughan anticipated that a budget amendment for FY 2005 would be necessary.

Mr. Gaughan gave an update on delinquent agency reports. He reported that the Swan Lake Salmon Elementary, report has been received and it is up to date. Lodge Grass has submitted their report but we have not seen their deposit.



Annual Per Diem Election - Mr. Senn explained that a public employee who is also a member of the TRS Board is not eligible to receive per diem as a board member for the same time they receive compensation as a public employee. If they are compensated for the same time twice, they would need to file a report with the Commissioner Of Political Practices. However, if a board member is on annual leave or some other kind of paid leave, they would not be in violation of this standard. Mr. Senn stated that staff was not aware of any Board member who would have to file with the Commissioner of Political Practices.

### Disability Applications

#### Executive Session to Discuss Disability Applications & Annual Reviews:

The Chair directed the meeting closed at 2:15 p.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 2:35 p.m.

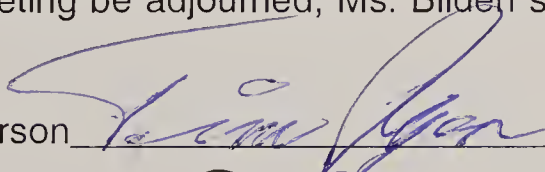
**MOTION/VOTE:** Mr. Turcotte moved that the disability application of Ms. Joanne H. Wright be approved. Seconded by Mrs. Foster, the motion carried unanimously.

Ms. Mona Bilden moved that the disability application of Mr. Anthony J. Kilyanek be approved. Seconded by Mrs. Foster, the motion carried unanimously.

Mr. Turcotte moved that the disability application of Mrs. Karen E. Everett be approved. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.

### ADJOURNMENT:

Mrs. Foster moved that the November 2004 meeting be adjourned; Ms. Bilden seconded. The meeting adjourned at 3:15 pm.

Chairperson 

Executive Director 



## **TEACHERS' RETIREMENT BOARD MEETING FEBRUARY 18, 2005**

### **CALL TO ORDER:**

Acting Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement Conference Room, 1500 Sixth Avenue East, Helena, Montana.

### **BOARD MEMBERS PRESENT:**

Acting Chairman, Scott Dubbs  
Mona Bilden  
Barbara Foster  
Kari Peiffer  
James Turcotte

### **BOARD MEMBERS ABSENT:**

Tim Ryan

### **STAFF PRESENT:**

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Vivian Hammill, Legal Counsel  
Natalie Chamberlain, Executive Secretary  
Dan Gaughan, Accounting/Fiscal Manager  
Johnelle Sedlock, Benefits Officer  
Bill Hallinan, Information System Manager

### **OTHERS PRESENT:**

Charlotte Thomas, Legislative Chair, Montana Retired Educators' Association  
Bob Bungni, Interim CIO, Board of Investments  
Dan McKenty, Retired Teacher  
Howard Lawson, Retired Teacher  
Darrel Rud, Executive Director, School Administrators of Montana

### **CALL TO ORDER**

Adopt Agenda - Acting Chairman Scott Dubbs called for additions or changes to the Agenda for February 18, 2005. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda. Mr. James Turcotte moved that the agenda be approved. Seconded by Mrs. Mona Bilden, the motion carried unanimously.





Approval of November 12, 2004 Minutes - Chairman Dubbs called for a motion to approve the November 12, 2004, Board meeting minutes. Mr. James Turcotte moved that the November 12, 2004 minutes be adopted. Seconded by Mrs. Barbara Foster, the motion carried unanimously.

### **PUBLIC COMMENT**

Chairman Dubbs called for public comment on Board related items. Seeing none, Mr. Dubbs introduced Bob Bugni, Interim CIO, Board of Investments.

### **BOARD OF INVESTMENTS**

Mr. Bob Bugni, Interim CIO, of the Board of Investments discussed the structure and staff currently at the Board of Investments. Mr. Bugni informed the TRS Board that as of January 31, 2005, retirement fund assets were at 6.24 Billion or approximately 64 percent of total assets under management by the BOI, with TRS owning approximately 40 percent of that the total retirement assets. Mr. Bugni gave an overall update on the assets managed by the Montana Board of Investment and their future asset allocation plans.

### **EXECUTIVE DIRECTOR'S REPORT**

Mr. Senn report three staff changes: Bill Hallinan replaces David Swenson as the TRS Information Technology Manager. Johnelle Sedlock was promoted form Accountant to Benefit Officer. Johnelle replaces Helen Gonsowski. Kelly Hargreaves has been hired to fill the Accountant position vacated by Johnelle.

Mr. Senn reviewed legislation that directly affected the Montana Teachers' Retirement System. TRS housekeeping legislation (HB 104), TRS Actuarial Funding (HB 181), Minimum Disability Benefit Adjustment (HB 239), 2.0% Professional Retirement Option (HB 338), Optional Retirement Plan (ORP) Funding Swap (HB 430), Distribute Lottery Proceeds to County Retirement Funds (HB 523), Retirement Incentive for TRS Members (HB 414), Retirement Incentive for State Employees (SB 72), and K – 12 SHIP (HB 124). Mr. Senn also informed the Board the 2.0 percent GABA (HB 633), and the Professional Retirement Option (HB 338), if approved by the Legislature, would increase the general fund obligation to the TRS by close to 20 million dollars in the next biennium.

Mr. Senn reported that staff had discussed with Milliman renewing their contract for the next biennium. He anticipated that the contract presented to the Board in May would include an option to complete a full actuarial valuation as of July 1, 2005, and that future Valuation reports would include more detailed information, as recommended by Mellon.

The Internal Revenue Service (IRS) released proposed regulations for phased retirement in late 2004 to allow pension distributions to active employees under a bona fide phased retirement program. Mr. Senn reported that the proposed regulations would not open many opportunities for Montana teachers because of the narrow definition of a bona fide phased retirement program and age limitations.



Mr. Senn reported it was recently discovered the program written to calculate the actuarial cost to purchase additional service was overstating the cost by .02% per year of service purchased. A total of 29 accounts were overstated between \$20.00 and \$703.00. In each case where there was a balance due, the balance has been reduced by the amount overstated; where the member had already purchased the additional service, the overpayment will be refunded.

### **LEGAL COUNSEL REPORT.**

Legal Counsel, Vivian Hammill, reported on the following cases.

Ruey-Lin Lin case: Ms. Hammill reported that oral arguments for summary judgment on the Mr. Lin's case were presented on February 18, 2005. Ms. Hammill reported that two months after the hearing the Hearing Officer ruled the TRS motion for Summary Judgment should be granted. Mr. Lin has not appealed the decision and has requested he be allowed to pay the "option 1" employee contribution on the excess earnings. Ms. Hammill recommended the Board adopt the Hearing Officer's findings, and authorize staff to enter into an agreement with Mr. Lin accepting the additional contributions provided, he agrees to bring no other action against TRS regarding his excess earnings.

**MOTION/VOTE** Barbara Foster moved that the Board accept the Hearing Officer's findings and to approve the proposed settlement agreement recommended by Counsel. Seconded by Ms. Bilden. The motion carried unanimously

Merle Farrier case The TRS opening brief was filed in early January. There will be an answer brief by Mr. Farrier's attorney due in March. We will then have a reply brief due in April. Ms. Hammill is not sure when we will have a decision once the final brief is completed in April.

Mr. Turcotte asked what kind of financial clock is ticking?

Mr. Senn replied that the last time interest was calculated the total due was about \$50,000.00.

### **OTHER BUSINESS**

Out of State Travel – Mr. Senn submitted out of state travel justification forms for the following employees:

Vivian Hammill: 2005 National Association of Public Pension Plan Attorneys (NAPPA) annual conference. Grand Hyatt Tampa Bay, FL, May 1 –4 2005.

Bill Hallinan: 2005 Public Retirement Information Systems Management (PRISM) annual conference. Grand Hyatt Tampa Bay FL, May 1 –4 2005.

Rex Merrick: Advanced FileNet Imaging Administration Training. Costa Mesa, CA, April 11-15th.

**MOTION/VOTE** Mrs. Bilden moved that the out-of-state travel requests be approved. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.





Personnel Committee Report: Mr. Senn reported that Mr. Jim Kerins would review the Executive Director's annual performance with the Personnel Committee following the Board meeting.

Financial Statements, Delinquent Agency, Travel, and Budget Reports - Mrs. Tammy Rau, Deputy Executive Director, introduced Dan Gaughan, Accounting/Fiscal Manager to answer questions about financial statements and current budget reports for the 2005 fiscal year.

Mr. Senn asked about the number of letters prepared by the Actuary regarding legislative proposals.

Mr. Gaughan responded that so far there were 17 or 18 letters at \$2,500.00 to \$3,000.00 per letter.

Mr. Senn informed the Board that because of the recent staff turnover and now the legislative session, staff has not had time to work on the communication plan with Milliman that the Board had approved. Postponing implementation of the communication plan until next fiscal year will save about \$15,000.00 this year.

Next Meeting Dates – The 2005 regular meetings of the Teachers' Retirement Board have been approved for May 13<sup>th</sup>, September 9<sup>th</sup>, and November 18<sup>th</sup>.

MOTION/VOTE Mr. Turcotte moved the May 13 meeting be changed to May 20 2005. Seconded by Mrs. Bilden, the motion carried unanimously.

## **RETIREMENT REPORT**

Regular, Survivorship, & Adjustments The Board reviewed the Regular, Survivorship, and Adjustment Report.

## **DISABILITY APPLICATIONS**

Executive Session to Discuss Disability Applications & Annual Reviews:

The Chair directed the meeting closed at 11:00 a.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 11:30 a.m.

MOTION/VOTE Mrs. Foster moved that the disability application of Ms. Kimberly K. Gaub be approved. Seconded by Mrs. Peiffer, the motion carried unanimously.


Mrs. Bilden moved that the disability application of Mrs. Judith R. Wolfe be approved. Seconded by Mrs. Foster, the motion carried unanimously.

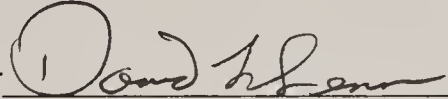
## **ADJOURNMENT**



Minutes  
Teachers' Retirement System  
February 18, 2005

There being no further business, the meeting was adjourned at 3:15 pm.

Vice Chairperson 

Executive Director 



## **TEACHERS' RETIREMENT BOARD MEETING** **September 23, 2005**

### **CALL TO ORDER:**

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Teachers' Retirement Conference Room, 1500 East Sixth Avenue, Helena, Montana.

### **BOARD MEMBERS PRESENT:**

Chairman, Tim Ryan  
Mona Bilden  
Scott Dubbs  
Kari Peiffer  
James Turcotte  
Darrell Laymen

### **STAFF PRESENT:**

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Vivian Hammill, Legal Counsel  
Alison Peterson, Executive Secretary  
Johnelle Sedlock, Benefits Officer  
Bill Hallinan, Information System Manager  
Rex Merrick, Information Technology Specialist  
Karla Scharf, Retired Payroll Supervisor  
Ali Bovingdon, Legal Counsel

### **OTHERS PRESENT:**

David Ewer, Budget Director  
Sandra Denesen, MEA-MFT Retired  
Joe Brott, MTSBA  
Kelly Jenkins, MPERA  
Tom Bilodeau, MEA-MFT  
Sara Berg, MREA  
Theron Bjerke, Teacher, Savage Public Schools  
James Hovde, Teacher, Savage Public Schools  
John McNeil, Superintendent Savage Public Schools





### **FUNDING ISSUES:**

Chairman Ryan introduced David Ewer, Budget Director, to discuss the actuarial funding issues and establishing a joint issues committee made up of two representatives of each retirement board and the Board of Investments. Mr. Ewer explained the position of the Schweitzer Administration regarding benefit enhancements and that the Administration would not support legislation that creates additional unfunded liabilities and that Governor Schweitzer was committed to transferring \$100 million to the TRS to help cover the current unfunded liability. Mr. Ewer on behalf of the governor's office asked for support on establishing the joint issues committee. The Board agreed that two members should be appointed during the election of officers to the Board section of the agenda.

### **CALL TO ORDER**

Adopt Agenda -Chairman Ryan called for additions or changes to the Agenda for May 20, 2005. Seeing none, Chairman Ryan requested a motion to adopt the Agenda.

**MOTION/VOTE** Mrs. Mona Bilden moved that the agenda be approved. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

Approval of May 20, 2005 Minutes - Chairman Ryan called for a motion to approve the May 20, 2005, Board meeting minutes.

**MOTION/VOTE** Mr. Scott Dubbs moved that the May 20, 2005 minutes be adopted. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.

### **PUBLIC COMMENT**

Chairman Ryan called for public comment on Board related items. Tom Bilodeau from MEA-MFT commented on the need for MEA/MFT to be involved in the next CPERS (Committee on Public Employees Retirement Systems). Mr. Bilodeau also addressed the importance of fiduciary responsibility to active teachers and retirees, and the need to discuss retirement funding issues with the participants of TRS.

Chairman Ryan requested that the plan design be moved to this afternoon, The Board agreed.

### **EXECUTIVE DIRECTOR'S REPORT**

Interim Legislative Committees & Actuarial Funding:- Mr. Senn reported on the meetings with the interim committee on School Funding and State Administration and Veteran's Affairs Committee (SAVA), to discuss the issues regarding unfunded liabilities to TRS and PERS. Mr. Senn addressed the following issues that create additional unfunded liabilities: End Of Career Pay Raises, Bona Fide Separation from Service, and Benefit Swaps for Additional Salary. Also addressed was the possible \$100 million cash infusion to reduce the unfunded liabilities suggested by the Governor.



Executive Summary-Mr. Senn reported three staff changes: Ali Bovingdon has been hired to replace Vivian Hammil as legal counsel to the Board. Natalie Chamberlain was promoted from Executive Secretary to the newly created position of Payroll/Benefits Specialist in the Retired Payroll Section. Alison Peterson has been promoted to the position of Executive Secretary. The position of Administrative Assistant is open and will be closing September 30, 2005.

**OTHER BUSINESS:**

Board Member Manual Updates- Chairman Ryan questioned the changing of the Board meetings from the second Friday in February to the third Friday. Mr. Senn replied that the second Friday of February previously had conflicts with Valentines Day and school tournaments.

**MOTION/VOTE** Mr. James Turcotte moved that the Board Member Manual update be approved. Seconded by Mr. Scott Dubbs, the motion carried unanimously.

Board on Investments Report- Mr. James Turcotte reported on the recent hiring of Mr. Cliff Sheets as the new Chief Investment Officer. Mr. Turcotte stated the board is planning on hiring a retainer consultant as an independent source to conduct studies and create benchmarks, and report their findings back to the Board. Mr. Turcotte reviewed the performance numbers; TRS rate of return for fiscal year 2005 was just over 8%.

Next Meeting Date: The Meeting date was reviewed, the Board agreed on November 18, 2005.

Financial Statements, Budget & Travel: Mrs. Tammy Rau reported that there was no delinquency report at this time. No other comments were made.

Alternate Pay Plan: Mrs. Tammy Rau reported on the Lump Sum Performance Policy that would be updated with a new rating scale to determine awards. Upon completion, the revised plan will be circulated among staff for comment and then reviewed again by the Alternative Pay Plan Committee before being presented to the Board for adoption.

A personnel committee meeting will be scheduled with CMS for November 17, 2005 for the purpose of completing the performance appraisal of the Executive Director.

Information Technology Status Report: Mr. Bill Hallinan reported as of this date Rex Merrick has currently scanned over 269,072 documents, and is currently up to "M" in scanning the deceased files. The new Web Wages and Contributions reporting system is available to employers and 80% of schools are utilizing this program.





Mr. Hallinan also reported that our Web Pages are being reconstructed. . Mr. Hallinan informed the Board this was to project a single face of government by having all government Web Pages using the same design and color scheme.

## **RETIREMENT REPORT**

Regular, Survivorship, & Adjustments The Board reviewed the Regular, Survivorship, and Adjustment Report.

## **DISABILITY APPLICATIONS**

Executive Session to Discuss Disability Applications & Annual Reviews:

The Chair directed the meeting closed at 11:25 a.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 11:45 a.m.

**MOTION/VOTE** Mr. Turcotte moved that the disability application of Mr. Jerel S. Barnhart be approved. Seconded by Mrs. Peiffer, the motion carried unanimously.

**MOTION/VOTE** Mrs. Bilden moved that the disability application of Mrs. Stefanie L. Erving be approved. Seconded by Mrs. Peiffer, the motion carried unanimously.

**MOTION/VOTE** Mrs. Peiffer moved that the disability application of Mrs. Kelly F. Klein be approved. Seconded by Mr. Dubbs, the motion carried unanimously.

**MOTION/VOTE** Mrs. Bilden moved that the disability application of Mrs. Sharon M. Patacsil be approved. Seconded by Mr. Layman, the motion carried unanimously.

**MOTION/VOTE** Mr. Dubbs moved that the disability application of Mr. Vance G. Dols be approved. Seconded by Mrs. Bilden, the motion carried unanimously.

The staff recommends that the Mrs. Patricia A. Zorko a disability retiree be “excluded” from future annual earnings and medical reporting requirements.

**MOTION/VOTE** Mr. Layman moved that Mrs. Patricia A. Zorko be “excluded” from future annual earnings and medical reporting requirements. Mrs. Peiffer seconded the motion. The motion carried unanimously.

## **INDIVIDUAL MEMBER PETITIONS**

Vance Ventresca – Mr. Ventresca requested that he be allowed to withdraw his appeal of staffs' decision regarding the 10% cap. There being no objection, the Chair so ordered.



Robert Frazier 10% Cap - Mr. Frazier appealed TRS staffs' decision to deny his request for an exemption to the 10% cap statute, §19-20-715, MCA. Mr. Senn explained that the Teachers' Retirement Act, §19-20-715, MCA, provides that the amount of each year's earned compensation used in calculating average final compensation may not exceed the member's earned compensation for the preceding year by more than 10 percent, except as provided by TRS Board rules.

Effective October 29, 2004, Mr. Frazier' contract for the 2004-05 school year was increased from \$74,100 to \$100,880 to compensate for the assignment as Dean of the College of Technology, Helena. This assignment was in addition to his position as University Executive Vice President and Executive Assistant to the President on the Missoula campus. As a result of this assignment, during the 2004-05 fiscal year, Mr. Frazier held two executive level positions in two different locations.

The statement of intent included in the enabling legislation stated that in adopting the 10% cap, it was the intent of the legislature to provide equitable retirement benefits to all members of the Teachers' Retirement System based on their normal service and salary and to limit the effect on the retirement system of isolated increases received by selected individuals through promotions or one time salary enhancements during their last years of employment. The rules adopted by the Board, 2.44.518, ARM, state that the assignment of additional duties of a one time or temporary nature shall not be exempt from the 10% cap.

**MOTION/VOTE:** Mr. Turcotte moved to deny Mr. Frazier's appeal with the Board not providing an exception to the 10% cap, Seconded by Mr. Dubbs. The motion carried unanimously.

Ronald Reitz-Retirement Effective Date - Mr. Reitz appealed TRS staffs' decision to deny him benefits effective June 1, 2005.. Mr. Reitz applied for retirement benefits effective June 1, 2005 asserting he would terminate all employment eligible to participate in the TRS effective at the end of the academic year, or May 6, 2005, and therefore, eligible to begin receiving retirement benefits effective June 1, 2005. Staffs review of the record found that Mr. Reitz had not terminated all positions eligible to participate in TRS as required by 19-20-801, MCA, but had signed a summer contract which continued his employment with the University System through July 22, 2005. The Board reviewed the letters and written appeal submitted by Mr. Reitz.

**MOTION/VOTE:** Mr. Dubbs moved to deny the petition of Mr. Ronald Reitz, Seconded by Mr. Turcotte. The motion carried unanimously.

Savage Public Schools –Retirement Incentive - Savage Public Schools teachers, Theron Bjerke and James Hovde appealed TRS staff ruling that they did not terminate all employment eligible to participate in TRS, as required by §19-20-801, MCA, and therefore, were not eligible to receive retirement benefits. Also present were John McNeil, on behalf of the school board, and Sara Berg, Montana Rural Education Association legal counsel.





In April 2005, through their collective bargaining agreement, the district offered teachers a retirement option that would classify them as retired but continue to employ them at 1/3 of their average compensation. In addition they would receive additional compensation in the form of a cash incentive of \$24,000, fully paid health insurance and other fringe benefits.

TRS staff ruled that because the collective bargaining agreement continued their employment they did not terminate all employment eligible to participate in TRS, which is in violation of §19-20-801, MCA. Staff also raised questions about possible violations of IRS code 1.401-1(b)(1)(i).

Mr. John McNeil, Superintendent of Savage Public Schools stated that Ohio Retirement System allows their teachers to work and earn retirement and it doesn't break the IRS rules.

Ms. Vivian Hammil stated that Montana has different statutes than other states and different retirement systems cannot be compared.

**MOTION/VOTE:** Mr. Turcotte moved to deny the request of the Savage Public School teachers, due to language in the collective bargaining agreement continuing their employment with the district. The motion was seconded by Mrs. Peiffer, and carried unanimously.

#### **LEGAL COUNSEL REPORT.**

Legal Counsel, Vivian Hammill, reported on the following cases.

Merle Ferrier case: Ms. Hammil reported that the Montana Supreme Court reversed the decision of Lewis and Clark County District Court Judge Sherlock. The Supreme Court found that the TRS statutes are presumed to be constitutional and that Mr. Farrier presented no proof that the legislature did not have a rational basis for determining that TRS must remain connected to the ORP in order to remain actuarially sound.

Vivian stated that a cross claim for repayment of funds is possible but there is pressure to settle.

Chairman Ryan asked why we should settle.

Mr. Turcotte stated there should be no compromise.

The Chair directed Counsel pursue recovering benefits Mr. Farrier received after he returned to work with the University system, plus interest.

Suspected embezzlement case: Ms. Hammill updated the board on the suspected embezzlement case. It was suspected that the signature of a deceased retired member had been forged on a change of address request subsequent to her death. One form had also been notarized. The chief investigator in Colorado discovered the suspect was working at a bank at





that time and that he had used a co-workers notary seal to notarize the signature of the deceased retiree.

Ms. Hammill reported that since the last Board meeting it was found that the suspect was back in Montana. State Investigator Shane Shaw has been provided with details of the case and is actively pursuing the suspect. Ms. Hammill stated that an arrest is eminent.

Chairman Ryan asked about the statute of limitations.

Ms. Hammill replied that the statute of limitation is 5 years and this case has been active only two years.

Joseph Baumgardner - PERS case: Mr. Kelli Jenkins of PERS Lead Counsel, provided information on the case of Mr. Baumgardner. Joseph Baumgardner sued the Public Employees' Retirement Board alleging that House Bill 294, enacted by the 2001 Montana Legislature, unconstitutionally delegated legislative power; impaired the obligation of contracts in violation of Montana Constitution Article II, Section 31; and contained more than one subject in violation of Montana Constitution Article V, Section 11(3). The Supreme Court reversed the lower court stating that because the Montana Constitution itself delegated the authority to the Board to make actuarial determinations, the District Court erred in concluding that the Legislature and H.B. 294 unconstitutionally delegated authority to the Board to make those actuarial determinations.

Mr. Senn introduced Ali Bovingdon, the new Legal Council of TRS.

**PLAN DESIGN ISSUES CONTINUED:** There was consensus among the Board that the current plan design was not likely to meet the needs of future members and that either the age based plan or the money purchase plan would be an improvement. Sandra Denesen, MEA-MFT Retired, commented that the MEA-MFT felt that they needed to see more examples of how the money purchase plan would affect future members before they could make a decision on this plan.

### **ELECTION OF OFFICERS:**


Chairman Ryan called for nominations for a Chair of the Teachers' Retirement Board. Mrs. Bilden nominated Scott Dubbs for the position of Chairman. Mr. Turcotte moved that nominations be closed and that a unanimous ballot be cast. Mrs. Kerri Peiffer seconded the motion; Mr. Dubbs was elected Chair of the TRS Board unanimously.

Chairman Ryan called for nominations for Vice-Chair. Mr. Turcotte nominated Keri Peiffer for the position of Vice-Chair. Ms. Bilden seconded the nomination and Mrs. Peiffer was elected Vice-Chair of the TRS Board unanimously.



**ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:45 pm.

Chair 

Executive Director 





## **TEACHERS' RETIREMENT BOARD MEETING**

### **November 18, 2005**

#### **CALL TO ORDER:**

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement Conference Room, 1500 East Sixth Avenue, Helena, Montana.

#### **BOARD MEMBERS PRESENT:**

Chairman, Scott Dubbs  
Mona Bilden  
Tim Ryan  
Kari Peiffer  
James Turcotte  
Darrell Layman

#### **STAFF PRESENT:**

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Alison Peterson, Executive Secretary  
Johanne Sedlock, Benefits Officer  
Karla Scharf, Retired Payroll Supervisor  
Ali Bovingdon, Legal Counsel  
Dan Gaughan, Accounting/Fiscal Manager  
Janet Cooper, Benefits Officer

#### **OTHERS PRESENT:**

Mark Bruno, Governor's Budget Officer  
Kathy Bramer, OPI  
Tom Bilodeau, MEA-MFT  
Nona Kendall, Teacher  
David Paoli, Attorney for Don Read



**CALL TO ORDER:**

Adopt Agenda - Chairman Dubbs called for additions or changes to the Agenda for November 18, 2005. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda.

**MOTION/VOTE** Mr. Jim Turcotte moved that the agenda be approved. Seconded by Mr. Darrell Laymen, the motion carried unanimously.

Approval of September 23, 2005 Minutes - Chairman Dubbs called for a motion to approve the May 20, 2005, Board meeting minutes.

**MOTION/VOTE** Mr. Turcotte moved that the September 23, 2005 minutes be adopted. Seconded by Mrs. Mona Bilden, the motion carried unanimously.

**EXECUTIVE DIRECTOR'S REPORT:**

July 1, 2005 Actuarial Valuation - Mr. David Senn reported on the actuarial valuation prepared by Mr. Mark Olleman of Milliman Consultants and Actuaries. The information provided shows that the system is currently not actuarially sound, because the contributions do not amortize the unfunded accrued liabilities over a reasonable period (30 years). Employer contribution rates would need to be increased by 4.06% by July 1, 2006 to amortize the current unfunded liabilities over 30 years.

Illustration of Funding Stressors' and Their Costs - Mr. Senn reported on the letter that was presented to the interim committee from Mark Olleman illustrating the costs of early retirement incentives, work after retirement, and the impact of salary spiking on the retirement system.

Executive Summary - Mr. Senn reported that the Legislative Auditor completed the 2005 financial audit of the Montana Teachers' Retirement System. The Auditor found the system is not actuarially funded as required by board policy and the Montana Constitution. Their report includes one recommendation that legislation be enacted to provide actuarial funding for TRS. The Board will conditionally concur with this recommendation; because the Board does not have authority to pass legislation.

Mr. Senn reported on meeting with the Office of Public Instruction that he and Bill Hallinan attended regarding the need for collecting data on faculty and staff, including, salary information, employment status, teaching assignments, and professional development needs. OPI and TRS recently compared records and found discrepancies in employment records, such as, working retirees that are not being reported to TRS and employees reported to TRS and not OPI.



**LEGISLATIVE PROPOSALS IN ANTICIPATION OF SPECIAL SESSION:**

State Administration and Veterans' Affairs Interim Committee Funding Proposal (SAVA): Mr. Senn reported on LC2005-3. The TRS Board was concerned that bill draft LC2005-3, may not provide for a 30 year amortization period of the UAAL because the supplemental rate of 3.45% would sunset when the current employer rate of 7.47% could amortize the remaining UAAL over 30 years, resulting in an amortization period greater than 30 years. The Board also had concerns on the wording for post-retirement employment limitations-cancellation and recalculation, and with the proposed wording to reflect taxable and non-taxable fringe benefits, and taxable value of health insurance.

**MOTION/VOTE** Mr. Turcotte moved that the definition of compensation earnable after retirement include the value of all annuities and car allowances, and that Mr. Senn work with the interim committee to address the supplemental contribution rate sunset and amortization period issues.. Mr. Tim Ryan seconded the motion and it carried unanimously.

**PUBLIC COMMENT:** Chairman Dubbs called for public comment. Kathy Bramer, personnel director of OPI stated appreciation to Mr. Senn and the Board for explaining the funding issues and addressing the need for legislation to close the loopholes in the retirement system. Tom Bilodeau addressed the issues on retirement being discussed by the Quality Schools Interim Committee and Mill Levies proposed in different counties. Mr. Bilodeau commented on the possibility of change from a county based Mill Levy to a state wide Mill Levy.

**INDIVIDUAL MEMBER PETITIONS:**

Nona J. Kendall-Average Final Compensation: Ms. Nona Kendall appealed to the Board the calculation of her Average Final Compensation. Ms. Kendall retired effective July 1, 2005. During the 2002-03 school year Ms. Kendall was on a one year leave and during that year substitute taught 4 days. As a substitute, Ms. Kendall earned \$65 a day for total wages of \$260. Those wages were annualized to determine her salary for the 2002-03 school year.

Ms. Kendall requested the Board use her 2001-02, 2003-04, and 2004-05 salaries to calculate her average final compensation and refund contributions from her 4 days of service. Ms. Kendall stated that she was unaware that helping out her school by teaching 4 days would have any impact on her retirement benefits.

Mr. Senn called to the Board's attention the difference between the rate of pay Ms. Kendall received as a substitute teacher and her daily rate of pay as a teacher. If she would have been paid the hourly or daily rate that she was as a full-time teacher we wouldn't be here today.

Mr. Ryan stated there is absolutely no question in my mind that no rational person would have taught 4 days knowing what the impact would be on his or her retirement. This is not a case where someone is trying to circumvent the law for their personal gain. I think honest people made decisions without recognizing what the consequences were. It also occurs to me that if you look at the contributions made by her and her employer, the benefit she is asking for has probably been actuarially funded so that there is not a negative impact on the System.





Mr. Senn asked Ms. Bovingdon address what precedent this would set if the Board were to grant an exception. Ms. Bovingdon replied: Courts do have certain powers of equity. It is possible if a court was to look at Ms. Kendall's case, it could find application of the statute to render such an unfair decision, that it would find an exception should be made. As far as establishing precedent I think you would want to be sure that whatever motion is made that it reflects that this decision is solely based on the facts that were presented in Ms. Kendall's case. That this is a one time exception that you are granting and that it is not any broader than that. That any other petitioners coming before you granting them an exception would have to be evaluated based on the facts that they present and the law. Also, I think it would also be important that the contributions be refunded to the employer.

Mr. Ryan said he believed this was an unintended consequence and is a unique situation. If informed of the consequence of substitute teaching, a rational person would have chosen not to have taught those four days.

**MOTION/VOTE:** Mr. Ryan moved that because Ms. Kendall was unaware of the consequence of her substitute service, we accept her proposal to calculate her average final compensation using the salaries reported for fiscal years, 2001-02, 2003-04, and 2004-05, and return to the district the contributions reported during the 2002-03 school year, provided she return to the district the wages she received for the substitute teaching service. Seconded by Mrs. Bilden. The motion carried with 5 members voting aye and one member voting nay.

**Donald Read-Average Final Compensation:** Mr. Read appealed to the Board the calculation of his Average Final Compensation; legal counsel, David R. Paoli, represented Mr. Read. Mr. Read requests the Board recalculate his average final compensation based upon his 1994-95, 1995-96, and 2004-05 salaries.

Mr. Read worked for U of M-Missoula for ten years as head football coach and retired in 1996. He was rehired to a full-time position in June 2004 as U of M- Missoula Athletic Director and worked in that position for 13 months, until July 1, 2005. When Mr. Read's benefit was recalculated TRS used an additional 1.11 years of service he earned between June 1, 2004 and July 1, 2005, which increased his retirement benefit.

Mr. Paoli said when you calculate AFC, clearly from Mr. Gannon's letter and from the President's letter; nobody envisioned that when you talk about 3 consecutive years of full-time service, a month in June 2004, would disqualify you from using his 2004-05 year to calculate his AFC. My plea is for fundamental fairness. Our argument is that Mr. Read has 3 full-time consecutive years of service being the 1994-95, 1995-96, and 2004-05.

Chairman Dubbs asked Mr. Senn about the detriment to the system. Mr. Senn replied if you look at what they are saying are 3 full consecutive years, you could pick any 3 full years reported to TRS. That is not what the legislature intended and that would not be actuarially sound. The law does not say the 3 highest earning years it says 3 consecutive years of full-time service.

Mr. Paoli said I don't think we're asking to pluck years out of any kind of sequence, in my view what we're asking for these are 3 full consecutive years.



Mr. Turcotte said his concerns with this are not the fact that contributions were paid on the salaries earned, but recalculating average final compensation and guaranteeing a benefit for the rest of a person's life that increases by \$208.00 per month when the System collected only \$2,400.00, seems out of the realm of reasonableness in his view.

**MOTION/VOTE:** Mr. Turcotte motioned to deny the petition. Mr. Laymen seconded the motion. The motion was failed with 2 members voting aye, and 4 voting nay.

**Discussion:**

Mr. Senn said the statutory language clearly states the Board must use the three consecutive years of full-time service that yield the highest average. Mr. Gannon's letter of October 5, 2005 stated that using the TRS definitions of full-time and part-time that the University would view Mr. Read's service credit in fiscal year 2003-04 to be part-time.

Mr. Turcotte said I don't think Mr. Read's service and work ethic are being questioned. His position is that the benefit is being calculated based upon the law, and it is unfortunate but he was called back to work and he was paid for that work. I don't believe retirement benefits and coming back to work from a retired position necessarily equate to increasing those benefits beyond what the law allows.

Chairman Dubbs said he agreed, we need to make sure whatever decision we make does not hamstring staff's ability in the future to be able to deal with these issues. In this individual situation he doesn't think Mr. Read or the University was attempting to manipulate retirement. So in that regard he would have to speak against this motion, but would like to request, Counsel's comments.

Ms. Bovingdon said in both Ms. Kendall's and in this case staff appropriately read and applied the law and that is what staff needs to continue to do. That is the role and function of staff to read the plain language of the law and to apply it. There may be certain equity issues in this case, as well it does not appear to be an instance of someone trying to get around the law to provide themselves a greater benefit. It may simply be a matter of someone not understanding the law and not understanding how their decision to start work in June 2004 instead of July 2004 would impact the calculation of AFC. However, it is factually distinguishable from the previous case. As far as precedent goes you need to make very clear when deciding to grant an exception to the strict reading of a statute and how staff has applied the law the factual basis for granting such an exception.

Mrs. Bilden asked how many calls or inquiries does TRS receive from others considering going back.

Ms. Karla Scharf stated had he called, or if the University would have called, we would have told them of the ramifications.

**MOTION:** Mrs. Kari Peiffer motioned to approve Mr. Reads request to have his 1995, 1996, and 2005 wages used to calculate his final salaries, and not to use this as precedent but as an individual case. Mr. Ryan seconded the motion.





Discussion:

Mr. Laymen asked: other than retirement benefit did Mr. Read suffer any negative consequences as a result of returning? Mr. Turcotte had mentioned he did return he was paid \$108,000 for that year of service and his benefits were cancelled, so he was not affected negatively on this was he? Everyone is talking fairness, did he suffer a loss as a result of returning to work.

Mr. Paoli responded that Mr. Read is suffering a loss because consideration is not given for that salary when he did return to work, but he did get paid \$108,000. He wasn't penalized or anything.

Mr. Laymen asked: did he come out at the end of the day in a negative amount because he returned to work?

Paoli replied that he believes he is, as a result of the 2004-05 salary not being included in his 3 highest consecutive years.

Mr. Layman responded that both beliefs are based on the fact that he's not receiving the additional \$208 in increased retirement benefits.

Mr. Turcotte stated Mr. Read did receive a \$92 increase as a result of returning to work, but not a \$208 increase.

Mr. Paoli responded he's getting the \$92 as a result of the additional service credit but there still is a gap there because his 2004-05 salary still isn't being considered.

Mr. Layman commented his understanding the reason you hire a staff is to adjudicate the rules and policies we have. Similar to the earlier case, it was commented that the Board's decision was not going to be precedent but that only lasted a minute and it was already quoted as precedent in the sense of fairness. Staff also mentioned had a call been made they would have explained exactly what would happen under each circumstance. I can't believe I'm the only person that knows you can call.

Mr. Paoli responded that the Board can view cases on an individual fact basis and that you can limit your decisions to the facts of that decision so therefore they are not going to bind you necessarily in the future. The concept of fairness will run throughout all of these appeals it will never go away, and to the extent that fairness is precedent it's part of your Board. Could Mr. Read have called, I think he could, and I appreciate the comments that the TRS gets calls all the time. I think the teachers call because they have union representation.

Mr. Paoli I am relying on the facts and circumstances of this case. These are isolated individualized facts that call out for fairness. With that I would appreciate your consideration.



Mrs. Bilden said I think you can see how hard we are trying to do the right thing. In listening to everything I need to change my position. I agree he is getting an increased benefit for the additional service and that he did get paid for his services. Maybe he had the responsibility, or the University had the responsibility to make a phone call. I'm changing my position on this.

**VOTE:** The motion failed with 2 members voting aye, and 4 voting nay.

**Robert Frazier-10% Cap Reconsideration:** Mr. Frazier asks the Board to reconsider their decision to deny his request for an exemption to the 10% cap, §19-20-715, MCA. Mr. Frazier contends that the legislature never contemplated the impact of the cap on someone working two jobs, for the same employer, in two different locations. Mr. Senn reviewed the facts of Mr. Frazier's appeal. Effective October 29, 2004, Mr. Frazier' contract for the 2004-05 school year was increased from \$74,100 to \$100,880 to compensate for the assignment as Dean of the College of Technology, Helena. This assignment was in addition to his position as University Executive Vice President and Executive Assistant to the President on the Missoula campus. As a result of this assignment, during the 2004-05 fiscal year, Mr. Frazier held two executive level positions in two different locations.

The Board discussed the statement of intent included in the 10% cap legislation stating it was the intent of the legislature to provide equitable retirement benefits to all members of the Teachers' Retirement System based on their normal service and salary and to limit the effect on the retirement system of isolated increases received by selected individuals through promotions or one time salary enhancements during their last years of employment.

**MOTION/VOTE:** Mr. Ryan moved to affirm the Board's earlier decision to deny Mr. Frazier's request for an exemption to the 10% cap. Seconded by Mr. Turcotte. The motion carried unanimously.

### **LEGAL COUNSEL REPORT:**

Legal Counsel, Ali Bovingdon, reported on the following cases.

**Merle Ferrier case:** Ms. Bovingdon reported on the resolution of the case in which the Board prevailed in its appeal to the Supreme Court. The Supreme Court remitted the case to the District Court. Ms. Bovingdon suggested filing a motion for judgment of merits with the District Court. Ms. Bovingdon advised the Board that Mr. Ferrier has requested to be placed on the Board agenda, and recommended we contact Mr. Ferrier to see if he is represented by legal counsel before staff engages in any discussions regarding settlement or any other issue.

**Roger Ogren Case:** Ms. Bovingdon updated the Board on the embezzlement case involving Mr. Ogren. Mr. Ogren was charged with felony theft in October for cashing his deceased mother's TRS benefit checks. At the time of his arrest he was working for the Lincoln School District as a counselor. Mr. Ogren will be represented by local attorney, Jim Obey. Lewis and Clark County Attorney Leo Gallagher will be prosecuting the case. Mr. Ogren filed chapter 7 bankruptcy on September 9, 2005 prior to his arrest. The account in which the TRS benefit checks were being





deposited into a bank account in Red Lodge, MT. has since been closed. The checks were withdrawn immediately after deposited to pay off debts.

**OTHER BUSINESS:**

2006 Meeting Dates - Mr. Senn asked that the Board approve the next meeting date of February 17, 2006, May 12, 2006, September 8, 2006, and November 17, 2006. Due to a scheduling conflict Mrs. Bilden asked that the February 17th meeting be moved to February 10, 2006.

**MOTION/VOTE:** Mr. Ryan moved to adopt the 2006 Board meeting dates. Mr. Laymen seconded the motion and the motion carried unanimously.

Out-of-State Travel Requests - Mr. Bill Hallinan requests a travel approval for the Public Retirement Information Systems Management (PRISM) annual conference being held April 23 through April 26, 2006, in San Francisco, CA.

**MOTION/VOTE:** Mr. Laymen moved to approve the request. The motioned was seconded by Mrs. Peiffer, and carried unanimously.

Alternative Pay Plan - Mrs. Tammy Rau reported on the Lump Sum Performance Policy. The policy has been updated from a lump sum cash award to a de minimis award due to tax consequences. The State Personnel Division has been sent a copy of the policy for review. State Personnel informed TRS that a de minimis benefit is limited to \$50.00. Mr. Senn has requested documentation of this limit. Given the questions raised by the Personnel Division, the policy will be further reviewed for compliance with state and federal regulations, and changed to require staff to provide quarterly documentation of performance.

**MOTION/VOTE:** Mr. Turcotte motioned to table the alternative pay plan. Mrs. Bilden seconded the motion, the motion carried unanimously.

Personnel Committee Report - Chairman Dubbs and Mrs. Bilden met with Kristin Jacobson on November 17, 2005 for Mr. Senn's performance appraisal. Staff and Board participation was outstanding to requests for input and comments. Mr. Senn's rating scales were outstanding on his job performance. The Board will work with Mr. Senn on setting goals and objectives for the future. Mr. Senn will submit recommendations to the Board for review at the next Board meeting in February.

Board of Investments Report - Mr. Turcotte stated that a report was given to the legislative SAVA committee that compared investments with actuarial numbers that was prepared by Carol South. The current benchmark has been the interest assumption on valuations, which has nothing to do with the performance of the funds. The Board of investments will be requesting two asset liability models to assist with properly allocating assets.

Financial Statements, Delinquent Agency, Travel and Budget Reports - Mr. Dan Gaughan presented the financial statements, budget and delinquent agency reports. The TRS is currently within the budget range. The work done by Milliman for legislation and bill drafts are not shown in the budget and may require a budget amendment. Mr. Gaughan reported that he has been in





contact with the schools that have delinquent accounts with TRS and all should be current within two weeks.

Travel Report - Benefit Officers Janet Cooper and Johnelle Sedlock are speaking around the state at the MEA/MFT pre-retirement workshops. Tammy Rau will be speaking at the workshop in Bozeman. Mr. Senn attended the Annual Retired Teachers' conference and the MCEL conference held in October. Mr. Senn recommended we hold a future Board meeting combined with a retirement seminar presentation.

Annual Per Diem Election Reports - Mr. Senn informed the Board of the forms required if a Board member were to receive overlapping per diem from being in a Board position and a public employee position.

### **RETIREMENT REPORT:**

Regular, Survivorship, & Adjustments The Board reviewed the Regular, Survivorship, and Adjustment Report.

### **DISABILITY APPLICATIONS:**

Executive Session to Discuss Disability Applications & Annual Reviews:

The Chair directed the meeting closed at 2:55 p.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

Disability Retirement Applications – The meeting was reopened to the public at 3:00 p.m.

**MOTION/VOTE** Mr. Ryan moved that the disability application of Mrs. Mary J. Blakeslee be approved. Seconded by Mr. Laymen, the motion carried unanimously.

**MOTION/VOTE** Mrs. Bilden moved that the disability application of Mrs. Patricia S. McAfee be approved. Seconded by Mrs. Peiffer, the motion carried unanimously.

### **ADJOURNMENT:**

There being no further business, the meeting was adjourned at 3:33 pm.

Chair 

Executive Director 



## **TEACHERS' RETIREMENT BOARD MEETING December 13, 2005**

### **CALL TO ORDER:**

Chairman Scott Dubbs called the meeting to order at 3:00 p.m., in the Teachers' Retirement Conference Room, 1500 East Sixth Avenue, Helena, Montana.

### **BOARD MEMBERS PRESENT VIA CONFERENCE CALL:**

Chairman, Scott Dubbs  
Mona Bilden  
Tim Ryan  
Kari Peiffer  
Darrell Layman

### **BOARD MEMBERS PRESENT:**

Jim Turcotte

### **STAFF PRESENT:**

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Alison Peterson, Executive Secretary  
Ali Bovingdon, Legal Counsel

### **CALL TO ORDER**

Adopt Agenda - Chairman Dubbs called for additions or changes to the December 13, 2005 agenda. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda.

**MOTION/VOTE** Mr. Jim Turcotte moved that the agenda be approved. Seconded by Mrs. Kari Peiffer the motion carried unanimously.

### **2005 SPECIAL SESSION:**

School Funding Retirement Cash Infusion Proposal - Mr. Senn reviewed House Bill 1 that would appropriate money from the state general fund to OPI, TRS, and PERS. TRS will receive a one time cash infusion of \$100 million. The \$100 million cash infusion alone will not make the system actuarially sound. In addition, the bill will not close the loopholes in the retirement system.





**MOTION/VOTE:** Mr. Laymen motioned to support House Bill 1 during the special session. Mrs. Peiffer seconded the motion. After further discussion, Mr. Layman agreed to withdraw his motion. Mrs. Peiffer agreed and the motion was withdrawn.

**MOTION/VOTE:** Mr. Turcotte motioned to support the appropriate a \$100 million contained in HB 1 to fund Montana Teachers' Retirement. Mrs. Peiffer seconded the motion. The motion passed unanimously.

**Legislative Interim Oversight HB 2:** Mr. Senn reported that Tammy Rau will be providing testimony on HB 2. The proposed bill would extend the duties of the State Administration and Veteran's Affairs interim committee (SAVA). It would be similar to the Committee on Public Employees Retirement System (CPERS) that was created in the late 80's early 90's. The SAVA committee will review administrative rules, draft legislation, and program evaluation. They will also study and evaluate actuarial and fiscal soundness of the retirement systems.

**MOTION/VOTE** Mr. Turcotte motioned to support House Bill 2 that would expand the duties of the SAVA committee. Mrs. Peiffer seconded the motion. The motion passed unanimously.

Other Special Session Proposals: Mr. Senn reported on the following House Bills that were also going to be covered in the 2005 Special Session. HB 3 would revise school funding, and HB 4 would create a quality schools interim committee school funding model.

**OUT-OF STATE TRAVEL:** Mr. Senn requested approval to attend the legislative committee meeting of the National Council on Teachers Retirement (NCTR) February 4th through 6th in Washington D.C. The NCTR will be reimburse TRS for the cost of travel and expenses.

**MOTION/VOTE** Mr. Tim Ryan motioned to approve Mr. Senn's request for out of state travel. Seconded by Mrs. Mona Bilden. The motion carries unanimously.

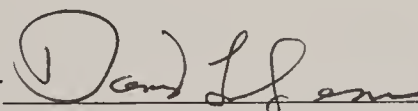
## **ADJOURNMENT**

There being no further business, the meeting was adjourned at 3:45 pm.

Chair



Executive Director





## **TEACHERS' RETIREMENT BOARD MEETING**

### **February 10, 2006**

#### **CALL TO ORDER:**

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement Conference Room, 1500 East Sixth Avenue, Helena, Montana.

#### **BOARD MEMBERS PRESENT:**

Chairman, Scott Dubbs  
Mona Bilden  
Tim Ryan  
Kari Peiffer  
James Turcotte  
Darrell Layman

#### **STAFF PRESENT:**

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Alison Peterson, Executive Secretary  
Johanne Sedlock, Benefits Officer  
Karla Scharf, Retired Payroll Supervisor  
Ali Bovingdon, Legal Counsel  
Dan Gaughan, Accounting/Fiscal Manager  
Janet Cooper, Benefits Officer

#### **OTHERS PRESENT:**

Mark Bruno, Governor's Budget Officer  
Kathy Bramer, OPI  
Tom Bilodeau, MEA-MFT  
Carroll South, BOI  
Cliff Sheets, BOI  
Darrell Rud, SAM



**CALL TO ORDER:**

Adopt Agenda - Chairman Scott Dubbs called for additions or changes to the Agenda for February 10, 2006. . Seeing none, Chairman Dubbs requested a motion to adopt the Agenda.

**MOTION/VOTE** Mrs. Mona Bilden moved that the agenda be approved. Seconded by Mrs. Kari Peiffer, the motion carried unanimously.

Approval of November 18, 2005 minutes - Chairman Dubbs called for any changes to the November 18, 2006 Board meeting minutes. Mr. Layman asked that the spelling of his name be corrected. Mr. Dubbs called for a motion.

**MOTION/VOTE** Mrs. Peiffer moved that the November 18, 2005 minutes, as corrected, be adopted. Seconded by Mr. James Turcotte, the motion carried unanimously.

Approval of the December 13, 2005 minutes- Chairman Dubbs called for any changes to the December 13, 2005 minutes, seeing none he called for a motion.

**MOTION/VOTE** Mr. Darrell Layman motioned that the December 13, 2005 minutes be adopted. Seconded by Mrs. Bilden, the motion carried unanimously.

**BOARD OF INVESTMENTS:**

Update from the Board of Investments: Mr. Carroll South, Executive Director of the Board of Investments spoke on the status of the Montana Pension Systems. He reported that the Board of Investments has hired an outside consultant to do an asset liability study on the TRS. The results of the study should be available to TRS in April.

Mr. Cliff Sheets, Chief Investment Officer of the Board of Investments was introduced. Mr. Sheets reported on TRS investments. It is expected the first half of 2006 will provide economic growth around 4%. In the beginning of February Mr. Sheets moved around 1% of TRS cash assets into the bond pool to increase fixed income allocation to be more in line with the other retirement systems. Mr. Sheets plans to diversify the TRS portfolio to enhance returns and lower risk.

Other Issues Related to the Investment Program: Mr. Turcotte commented on the status of the TRS funding and what courses the retirement system should take. The Board has the responsibility to see that the fund is managed in a proper way so that members are provided benefits, and the taxpayers, a system that is funded in a financially sound manner.

Life expectancy is increasing dramatically, consequently, as ages increase and benefits are expanded it will either take more money to pay the benefits or we will have to change the age at which members retire.





One of the biggest concerns is offering a defined contribution program and allowing people to manage their own assets. This is becoming an alternative choice to the defined benefit program in the private sector, and 95% of the population is not capable of making those choices. The defined contribution program is also an expensive alternative to having individuals manage their accounts than it is to manage an asset pool. The defined benefit program needs modifications to provide teachers with a retirement program that is financially sound, not a change from a defined benefit to defined contribution.

#### **PUBLIC COMMENT:**

Mr. Darrell Rud of School Administrators of Montana (SAM) commented on the need for loopholes to be further defined and not just referred to as loopholes. This will help with the education of people being affected by the decisions being made now and in the future.

Mr. Tom Bilodeau of MEA/MFT commented that during a meeting with the MEA-MFT retirement benefits committee it was unanimously decided that they would oppose any replacement of the defined benefit program with a defined contribution plan.

#### **INDIVIDUAL MEMBER PETITIONS:**

Maurice Luke-Dormant Account: Mr. Luke is an inactive non-vested member of the Teachers' Retirement System. He has not been an active member since 1978 at which time his account contained personnel contributions of \$1,465.83 plus interest. Pursuant to §19-20-503, MCA, active accounts are held in the Annuity Savings Fund (ASF) until the account has been dormant for 7 years when it may be transferred to the Pension Accumulation Fund (PAF), where it no longer accrues interest. Statute provides that the right of the member may not be jeopardized by the transfer and the amount transferred to PAF must be returned to the member's ASF account upon the member's request. Mr. Luke's account was transferred from ASF to PAF in August 2002.

Mr. Luke's account was transferred back to ASF but only with the interest that had accrued from September 1973 through August 2002. Mr. Luke is requesting that the interest from September 2002 through December 2005 also be reinstated.

**MOTION/VOTE:** Mr. Layman motioned that we approve Mr. Luke's request to reinstate his account with the interest from September 2002 through December 2005. Mr. Tim Ryan seconded the motion. The motion carried unanimously.

#### **EXECUTIVE DIRECTOR'S REPORT:**

Actuarial Assumptions - Does Smoothing Really Work: Mr. Senn reviewed the process of smoothing and how it impacts the actuarial valuation. TRS is currently using a 5 year smoothing period. Smoothing was put into place to help level the contribution rates.

Mr. Senn reported that in the 2005 session the valuation had two numbers in it. The actuary said we needed a rate increase of 4.06% but adding the unrecognized gains and losses would



adding another 0.50%, and would require a rate increase of 4.56%. The difference between the actuarial value of assets and the market value of assets caused considerable confusion during the 2005 regular session.

Mr. Senn recommended, at the May meeting, the Board consider using the market value of assets in the 2006 valuation and resetting the smoothing method after the 2006 valuation. .

Mr. Ryan suggested that gains needed to be smoothed over longer periods, and losses need to be smoothed over shorter periods.

Board's Funding and Benefit Policy: Mr. Senn suggested changes to the funding and benefits policy. The amortization period is the current benchmark for making changes and recommendations to the Legislature for funding. Mr. Senn recommends that the funded ratio be added to that benchmark.

Mr. Senn reported that he uses the Board's funding policy as a guide when reviewing proposed legislation. Based on the suggested changes, the unfunded liabilities of any legislative proposal would have to be funded over no more than 25 years. The funding ratio must be 80% or greater before the Board would support legislation to enhance benefits.

Mr. Senn recommended a committee be formed to oversee the changes on benefit enhancements and legislation. Mr. Turcotte, Mr. Ryan, and Mr. Layman volunteered to be on the committee.

Executive Planning Process-Schedule for 2006 & Legislative Proposals: The Executive Planning Process (EPP) is the Executive process that begins each January prior to the next legislative session. The State Administration and Veterans' Affairs (SAVA) committee has several meetings planned to review retirement legislation. On May 12th the committee plans to review proposals from organizations representing public employees, legislators, and the public at large. In June, the SAVA committee would like to hear from the retirement Boards on their legislative packages.

The EPP process also requires an IT Strategic Plan due in March; the plan will be presented to the Board in May. On April 14<sup>th</sup>, the Board's legislative concepts are due to the Office of Budget and Program Planning (OBPP).

Mr. Senn updated the Board on the Housekeeping proposal. The major changes would be to comply with IRS regulation, Section 415 of the Internal Revenue code. TRS is also looking at cleaning up the language regarding membership eligibility of a paraprofessional. The statute on paying interest on dormant accounts needs to be further defined. Clarify employers' obligation to keep retirees informed of insurance rate changes and have them make those change on the TRS Web system and dividing benefits in the circumstance of divorce.

The bill that the SAVA Committee approved includes changes to TRS, PERS, Game Wardens, and Sheriffs' Retirement Systems. The sections in the bill for TRS would help restore actuarial funding to the system.





Mr. Senn reported that legislation was expected to be introduced to change the current plan to a Defined Contribution (DC) Plan for new members. Mr. Senn recommended a proposal for a study committee during the next interim for the legislature to partner with the Retirement Boards to look at all the options included in the Board's legislative package.

Executive Summary: Mr. Senn reported that master's degrees received by three Canyon Creek teachers from a diploma mill are being challenged by the School District. An independent arbitrator has been appointed to review the case. The master's degrees increased the salary of those teachers and one of the teachers is retired. If there is a correction in the teachers' salaries, employee and employer contributions will need to be refunded to the District and benefits recalculated for the teacher who's retired. The retiree will also have to return any benefits received in error. Mr. Senn has been in contact with the County Attorney on the status of this case.

The letter to Mr. Robert Frazier stated he had 30 days or until December 21, 2006 instead of December 21, 2005 to request a contested case hearing. Due to this error Mr. Frazier was advised that he will have until February 25, 2006 to request a hearing.

The Office of the Commissioner of Higher Education is interested in developing a report on the status of the "Optional Retirement Plan" (ORP) and to also compare their program to other programs. Mr. Senn has agreed to serve on the "Editorial Board" to assist in writing the report.

Mr. Senn reported on his trip to Washington DC to attend the National Committee on Teachers' Retirement legislative committee.

#### **LEGAL COUNSEL REPORT:**

Legal Counsel, Ali Bovingdon, reported on the following cases.

Merle Farrier case: Ms. Bovingdon reported on the status of Mr. Farrier. On January 30, 2006 there was a hearing in front of Judge Sherlock on the motion to recover the benefits paid that he was not entitled to receive according to statute. Mr. Farrier, through his attorney, made the argument that this case is not proper before the court because it started out as a petition for judicial review, and this particular issue of him paying benefits back is outside of what was in the original administrative proceedings. TRS does not agree with this argument because the original Order of the TRS Board directed staff to collect any benefits paid in error in the event the Board prevailed in litigation. We are currently waiting for the court to decide if this is properly before them and if they can rule on the merits of the case. If the court decides it is not properly presented we have a complaint filed and ready to be served.

Roger Ogren Case: Ms. Bovingdon updated the Board on the embezzlement case involving Mr. Ogren. Mr. Ogren received over \$100,000.00 in benefits fraudulently from TRS. Mr. Ogren pled guilty to felony theft on February 10, 2006. Due to the circumstances of Mr. Ogren having no assets and having filed bankruptcy collecting restitution may be difficult. In this case Ms. Bovingdon believes that a jail term would be appropriate and has contacted County Attorney Leo Gallagher and spoke with him on this position. Ms. Bovingdon expects Mr. Gallagher to ask for Mr. Ogren to be sentenced to one month in jail, restitution, and community service.



2006 Meeting Dates –Due to scheduling conflicts, and the need for Mark Olleman to speak on the mortality study, Mr. Senn asked the Board to change the May 12th Board meeting.

**MOTION/VOTE:** Mr. Ryan motioned to move the Board meeting from May 12th to May 19th. Mrs. Peiffer seconded the motion, and the motion carried unanimously.

**OUT-OF-STATE TRAVEL REQUESTS –**

National Association of Public Pension Attorneys- A travel request for the new TRS attorney to attend the National Association of Public Pension Attorney convention in New York was presented.

Mr. Ryan commented that with Ms. Bovingdon leaving TRS, sending a new attorney to the conference may not be reasonable.

**MOTION/VOTE:** Mr. Ryan motioned to deny the request. Mrs. Peiffer seconded the motion and it passed unanimously.

NCTR Deputy Director's Meeting- A travel request for Tammy Rau to attend the meeting in Savannah, GA. May 18-20 was presented to the Board.

Operating System Training: A travel request for Bill Hallinan to attend training in Denver, CO. March 27-31.

**MOTION/VOTE:** Mr. Ryan motioned to approve both travel requests for Tammy Rau and Bill Hallinan. Seconded by Mr. Layman, the motion passed unanimously.

Personnel Committee Report – Tammy reported on the meeting with the Director of State Personnel Division on January 13th to discuss the Lump Sum Award and Leave Time Policies. After the meeting Mrs. Rau and Mr. Senn agreed that a new direction needs to be taken.

The Alternative Pay Plan Committee and the Board's Personnel Committee met on February 9th to discuss the spot cash reward information that was received from the Department of Administration in place of the two policies previously reviewed. The committee agreed TRS needs to set up predefined criteria for expectations to receive a lump sum award. Staff will be meeting and putting ideas together within the next few weeks. Tammy also recommended that TRS contract CMS to complete a market evaluation. It has been four years since the last study was done.

Financial Statements, Delinquent Agency and Budget Reports: Dan Gaughan reported on the TRS financial statements and budget status. The biggest movements in the budget have been in IT and contracted services with Milliman. The \$100 million, when transferred, went into the STIP account increasing our cash balance. Out of the cash infusion 26 million has been transferred into the bond pool.



Retirement Report: Mr. Senn reported that in 1990 Mr. Michael Lies' service was overstated by 26 years, he was retired at the time so it did not affect his retirement calculation. However, post-retirement cost of living adjustments were overstated resulting in the member being overpaid \$6,018.00. It was agreed that TRS would contact the member, advise him of the error, and try to work with him to recover the overpayment. Any agreement would be subject to approval of the Board when they meet in May.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 12:50 pm.

Chair Scott A. Durbles

Executive Director David L. Senn





## **TEACHERS' RETIREMENT BOARD MEETING**

### **May 19, 2006**

#### **CALL TO ORDER:**

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Board of Investments Conference Room, 2401 Colonial Drive, Helena, Montana.

#### **BOARD MEMBERS PRESENT:**

Chairman, Scott Dubbs  
Tim Ryan  
Mona Bilden  
Kari Peiffer  
James Turcotte  
Darrell Layman

#### **STAFF PRESENT:**

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Dave Ohler, Legal Counsel  
Natalie Chamberlain, Benefits Specialist/Retired Payroll  
Dan Gaughan, Accounting/Fiscal Manager  
Bill Hallinan, Information System Manager  
Janet Cooper, Benefits Officer  
Johnelle Sedlock, Benefits Officer  
Rex Merrick, Information Systems Analyst

#### **OTHERS PRESENT:**

Mark C Olleman, Actuary, F.S.A., M.A.A.A., Milliman  
Roxanne Minnehan, Executive Director (MPERA)  
Charlotte Thomas, Legislative Chair, Montana Retired Educators' Association  
Merle Farrier, Retired Teacher  
Tom Bilodeau, MEA-MFT

#### **CALL TO ORDER**

Adopt Agenda - Chairman, Scott Dubbs called for additions or changes to the Agenda for May 19, 2006. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda. Mr. Tim Ryan moved that the agenda be approved. Seconded by Mr. Darrell Layman, the motion carried unanimously.



### **Approval of February 10, 2006 Minutes –**

Chairman Dubbs called for a motion to approve the February 10, 2006, Board meeting minutes. Mrs. Mona Bilden moved that the February 10, 2006 minutes be adopted. Seconded by Mr. Layman, the motion carried unanimously.

### **PUBLIC COMMENT**

Chairman Dubbs called for public comment on Board related items. Seeing none, Mr. Dubbs introduced Mr. Mark C. Olleman, Actuarial Consultant.

### **ACTUARIAL FUNDING**

Mr. Mark Olleman submitted results of the July 1, 1999 – June 30, 2005 mortality experience study and gave recommendations to the board. Mr. Olleman's recommendations are designed to anticipate the emerging experience of the System. Data was found to be reasonably consistent and comparable with data used for other purposes. The actuarial assumptions were broken into three broad groups: 1) Active Demographic Assumptions. 2) Retired Mortality and 3) Economic Assumptions. Using data received from the above studies, assumptions were made that changes in mortality are likely.

Mr. Olleman's recommendations to the board included adopting new assumptions that are consistent with the most recent tables published by the Society of Actuaries and TRS mortality experience of the last six years. Secondly, project mortality improvements to the year 2008 and lastly study mortality again four years from now and give serious consideration at that time to adopting "generational" mortality assumptions, which vary for members born in different years. This approach directly reflects improvements in mortality that is expected to occur in the future. This methodology is currently uncommon, however, it is believed to be reasonable and expect this to be common in the future.

Recommendations are that the System wait until this method has been more thoroughly developed and tested before continuing a method which incorporates the same margins of mortality improvements for members born in all years.

**MOTION/VOTE** Mr. Ryan moved that Mr. Olleman's recommendations be adopted. Seconded by Mrs. Mona Bilden, the motion carried unanimously.

### **2006 VALUATION ASSET METHOD**

Mr. Mark Olleman stated that the asset valuation method we use with the retirement system takes any asset gain or loss which occurs over the year and breaks them into five pieces, and then recognizes one piece over the next five years. Mr. Olleman recommended that for the 2006 valuation the Board use the market value of assets without any smoothing. For future valuations we will continue to review asset valuation methods and make recommendations as appropriate.





Mr. Ryan moved that Mr. Olleman's recommendations be adopted to use the market value for 2006. Seconded by Ms. Kari Peiffer, the motion carried unanimously.

## **EXECUTIVE DIRECTOR'S REPORT**

### **Contracted Services Agreements -**

Mr. Senn recommended the Board extend the following Contracted Services Agreements.

**Ice Miller Legal Service** – Ice Miller has been TRS counsel for IRS issues since 1997, the proposed legal services agreement addendum with Ice Miller, is for time and materials not to exceed \$12,000, for fiscal year 2006-07.

**Alfred Munksgard & Associates** – Alfred Munksgard & Associates has maintained our pension administration system, Pension Plus, since 1992. The contract includes a retainer fee, which covers normal maintenance, and an hourly rate for special projects. These rates have not changed since 2001. The proposed contract calls for an increase in the retainer fee from \$3,500 to \$4,000, and an hourly rate increase from \$135.00 to \$140.00.

**MOTION/VOTE** Mr. Ryan moved to extend the contracted services agreements for both Ice Miller Legal Service and Alfred Munksgard & Associates. Seconded by Mr. Turcotte, the motion carried unanimously.

### **Funding and Benefits Policy –**

The Funding & Benefits Policy Committee, Tim Ryan, Jim Turcotte, and Darrell Layman, met on April 19, 2006. The Committee's recommend changes to enhance and clarify the policy were reviewed by the Board.

**MOTION/VOTE** Mr. Turcotte moved that the proposed changes be made to the policy to include 'funded ratio' together with the amortization period to the equation for determining if the system would remain solvent. Seconded by Ms. Peiffer, the motion carried unanimously.

### **Benefit Adjustment – Michael Lies**

Sometime in 1990 a change was made on the TRS database overstating Mr. Michael Lies' service by 26 years, causing post-retirement cost of living adjustments to be overstated and then compounded to when we discovered the error. Mr. Lies had been overpaid \$6,018.07. He was retired at the time of the error and it did not affect his retirement benefit calculation. . Effective with Mr. Lies' February 2006 payment, his benefit was corrected from \$1,115.40 to \$1,093.96 per month.

Mr. Lies said he would leave it up to the Board to decide what is fair. He didn't understand what took so long to find the error.



Mr. Senn responded, that the Board's policy allowed the Board to waive interest in cases where a system error caused the overpayment.

**MOTION/VOTE** Mr. Darrell Layman moved that we recover 50% of Mr. Lies overpayment over a 60-month period with reduced benefits or lump sum payment, which ever Mr. Lies chooses. Seconded by Ms. Peiffer, the motion carried unanimously.

### **2007 Board Legislative Concepts**

Mr. Senn reviewed the Board's three legislative proposals for the 2007 Session. Actuarially Fund the Teachers' Retirement System as required by the Montana Constitution, Article VIII, Section 15' A general housekeeping proposal clarifying provisions of the Teachers' Retirement Act, and request the Legislature create a commission to study new plan designs.

### **Other Legislative Proposals**

Mr. Senn reported there are 15 bill draft requests on the Legislative Council's website regarding retirement.

**Joint Issues Committee** – The first meeting of the Joint Issues Committee was held on April 3, 2006. The committee includes two members from each of the boards as follows:

Public Employees' Retirement Board  
John Paul  
Carol Carey

Board of Investments  
Terry Cohea  
Jack Prothero

Teachers' Retirement Board  
Scott Dubbs  
Tim Ryan

The committee agreed that more communication between the three boards would help all members better understand each other's roles and responsibilities, and provide opportunities to help each other on joint issues such as improved investment returns and actuarially funding the pension systems. The next Joint Issues Committee meeting is scheduled for Thursday, May 18, 2006.

State Administration and Veterans' Affairs **Interim Committee** –The SAVA committee met on March 6, and April 21. In March, the Committee discussed several bill drafts addressing concerns committee members had with the Public Employees' Retirement Board over administrative rules and their hiring process for a new Executive Director; and finalized their process for review proposed retirement legislation.

In April, the Committee focused on developing principles and guidelines for the state's public retirement systems as required under House Bill No. 2, December 2005 Special Session. In addition, the committee directed that a letter be sent to the TRS and PERS requesting an





estimate of the cost and potential impact of moving all new members to a defined contribution plan. We are working with our Actuaries to draft a reply.

### **Executive Summary –**

**Revised TRS Annual Statement of Account** – Tammy Rau presented a revised Annual Statement of Account for fiscal year ending June 30, 2006.

**Results of the DLI & OPI data evaluations** – A comparison of the TRS database of retirees to wages reported by school districts during FY 2005 to the Department of Labor and Industry (DLI) and to the FTE data on the 2005 Office of Public Instruction Fall Report found over 1,168 retired members on either the DLI or OPI databases. Historically, approximately 500–700 retirees are reported each year by school districts as working in a part-time position with earnings not exceeding the maximum allowed.

**New Staff** – Mr. Senn reported Heather J. Heisel has been hired to fill the second Receptionist position. Heather succeeds Alison Peterson who was promoted to the Executive Secretary position. Gayle Eby was hired to fill the Payroll Benefit Technician position vacated by Karen Hardison, who moved out of state last fall with her husband. In addition, Alison Person has given notice that she will be resigning her position effective May 19, 2006.

**Correction of Working Retiree's Contracts** – Mr. Senn reported TRS had received a request to review the post-retirement contracts between Fromberg Public Schools and Robert B. Vogele for the past four years. The contracts included both, compensation for Mr. Vogele's teaching duties plus, an additional amount for "special benefits". The special benefits contract for the 2005-06 school year stated that the additional amount was "in place of wages earned during the 2005-06 school year".

The "special benefits" contracts clearly states the additional amounts are paid "in place of wages earned", and therefore, are includable in the maximum amount Mr. Vogele is eligible to earn under either §19-20-731, MCA (or it's predecessor §19-20-804, MCA). The School Boards' Legal Counsel, Michael Dahlem, has submitted a draft agreement in which Mr. Vogele and the School Board would agree to rescind the "Special Benefits" agreements dated January 13, 2003, August 24, 2004 (Amended May 9, 2005), and August 16, 2005.

**Canyon Creek Elementary** - Arbitration found against two teachers and one retired teacher, at Canyon Creek School, who received master's degrees from a bogus online college. In 1999, teachers Beverly Henckel, Candice Holzer and Richard Swander received master's degrees from Columbus University, an online institution not recognized by formal accrediting agencies. Mr. Swander retired in 2003. As a result of the Arbitrator's decision, we will correct the salaries reported to TRS and refund the employee and employer contributions to the District. In addition, Mr. Swander's benefits will be recalculated and any benefits overpaid recovered. Staff estimated the overpayment to be \$5,852.38, plus interest.

### **Other Business**

**Interest Rate Credited to Member Accounts –**





Each year, pursuant to 19-20-501, MCA, the Board is required to set the rate of interest that is credited to active member accounts. The minimum rate allowed under §19-20-501 MCA, is 4.0%.

**MOTION/VOTE** Mr. Layman moved the interest rate remain at 4.0%. Seconded by Ms. Peiffer, the motion carried unanimously.

**TRS 2006-07 Budget** – Mr. Dan Gaughan, Accounting/Fiscal Manager presented the proposed budget and justification for the fiscal year beginning July 1, 2006 through June 30, 2007. Bill Hallinan, IT Manager, presented a report on the status of the TRS computer environment, future needs, the PRISM conference he attended in April, and FY 2007 proposed IT budget.

**MOTION/VOTE** Mr. Ryan moved that the proposed budget and justification for the fiscal year beginning July 1, 2006 through June 30, 2007 be passed. Seconded by Ms. Bilden, the motion carried unanimously.

**Out-of-State Travel Request** – Mr. Senn presented an out-of-state travel request for two Board members and the Executive Director to attend the NCTR Annual Conference to be held in Austin, Texas, October 13-18, 2006. T

The NCTR also offers a Trustee Workshop each summer, which could be attended in lieu of the annual conference if there were any scheduling conflicts or in addition to the annual conference as another educational opportunity for Board members. This year's summer workshop is scheduled for July 29 – August 1, Stein Eriksen Lodge, Park City, Utah.

**MOTION/VOTE** Mr. Ryan moved that approve the out of state travel requests for board members to attend either the annual conference or the trustee's workshop. Seconded by Ms. Bilden, the motion carried unanimously.

**Alternative Pay Plan** – Ms. Rau and the Personnel Committee, Scott Dubbs and Mona Bilden, reported Kristin Jacobson from Communication and Management Services (CMS) completed a market survey to compare salaries paid to Montana TRS staff to those in like positions in Montana and the surrounding states. The survey results reflected an average increase in the market rates of 12%.

The personnel committee recommended the Board approve adjusting staff compensation to move members closer to market and that any resulting pay increase be limited to a maximum of 8.5%, which includes the 4% legislative adjustment payable October 2006. Ms. Rau reported the cost this fiscal year would be approximately \$6,000, which is within the current approved budget. Staff also believes the impact on the FY 2006-07 budget around \$39,200, can be absorbed through anticipated vacancy savings next year.

**MOTION/VOTE** Mr. Ryan moved the Alternative Pay Plan with an 8.5% increase. Seconded by Ms. Peiffer, the motion carried unanimously.

**Next Meeting Dates** – The Board will meet on September 8 and November 17, 2006.



**Investments Report** – The Board of Investments have been moving ahead on a number of different areas. The asset/liability model presented yesterday, and then the asset allocation recommended will allocate investments among different investment alternatives, resulting in improved returns.

Mr. Turcotte reported that the investments have been managed in a relatively conservative manner from the standpoint of there has not been a lot alternative investments placed into the portfolios of any of the retirement systems. Part of that lack of diversification has been somewhat detrimental over the years to the overall returns of the retirement system. The idea behind an asset allocation is to try to average out the volatility of the portfolio. It doesn't eliminate the volatility and it does not eliminate the fact you can have losses or returns that are less than your actuarial assumptions, but this is a great step forward in trying to professionally manage an account and put it into a situation that hopefully will somewhat ameliorate those ups and downs as far as the market is concerned. Currently we're looking at about a little over 9% returns for the fiscal year 2006.

The next project the BOI will be entering into is to hire an external auditor. The external auditor will advise the Board and be directly responsible to the Board for assessing how our external managers perform. He will also assess how our internal managers are doing. The auditor will be guiding the Board, which has not been the case in the past, with staff mostly being the advisor in terms of making sure we are following the rules and regulations of State Law with respect to investing money for the retirement plans and other entities. The BOI will also expand into some real estate areas.

**Asset/Liability Model** –On Thursday, May 18th R.V. Kuhns presented to the TRS, PERS, and BOI Boards the asset/liability model developed for the TRS.

**Financial Statements, 2006 Budget, Delinquent Agency, & Travel Reports** – Dan Gaughan reported on the TRS financial statements and budget status.

### **Legal Counsel Report**

Dave Ohler advised the Board that Judge Sherlock had remanded the Board's motion for summary judgment to the Board for proceedings directing that the Board address three issues.

- (1) Whether the Board is entitled to receive reimbursement for the benefits paid to Mr. Farrier and to which by law he was not entitled;
- (2) The amount owed and how it will be repaid or offset; and
- (3) Mr. Farrier's presentation of any equitable or legal defenses that would preclude the Board from seeking recovery.

**MOTION/VOTE** Mr. Layman moved that the Board hire a hearing examiner, from Agency Services, to conduct a hearing and make recommendations on how to proceed on this case. Seconded by Mr. Turcotte, the motion carried unanimously





### **Case Update**

Mr. Senn brought it to the Board's attention that we did receive a payment from Roger Ogren, who was ordered to repay TRS \$100,000.00 he fraudulently received. Since May 2006, Mr. Ogren has been making monthly payments of \$1,296.00

### **DISABILITY APPLICATIONS**

#### **Executive Session to Discuss Disability Applications & Annual Reviews:**

The Chair directed the meeting closed at 2:15 p.m. to review disability applications since the individual's right to privacy of information pertaining to disability benefits clearly exceeds the merits of public disclosure.

**Disability Retirement Applications** – The meeting was reopened to the public at 2:30 p.m.

The staff recommends that the following disability retirees be approved for disability retirement benefits: Mrs. Andrea M. Shannon and Robert M. Risley.

**MOTION/VOTE** Ms. Bilden moved that the disability applications of Mrs. Andrea M. Shannon and Mr. Robert M. Risley be approved. Seconded by Mr. Layman, the motion carried unanimously.

The staff recommends that the following disability retirees be removed from future disability reviews: Patti S. Rafferty and Marcie R. Mosley.

**MOTION/VOTE** Ms. Peiffer moved that both disability retirees be "excluded" from future disability reviews. Ms. Bilden seconded the motion. The motion carried unanimously.

### **ADJOURNMENT**

There being no further business, the meeting was adjourned at 2:40 pm.

Chairperson 

Executive Director 











TO LOCK  
PERMANENTLY  
Push down spur  
with a blunt  
instrument.



